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**Long-term sustainability of outer space activities**

## **Prerequisites for promoting the consideration of ways and means of maintaining outer space for peaceful purposes in the context of the issue of the long-term sustainability of outer space activities**

### **Working paper submitted by the Russian Federation\*\***

1. For many years, consideration of the priority item of the agenda of the Committee relating to the definition of ways and means of maintaining outer space for peaceful purposes has, owing to ongoing differences in approach on the part of States, lacked thematic structure, dynamism and development indicators. In any case, many delegations evidently feel that there is no way of overcoming the situation that has arisen, and the agenda item is increasingly perceived as lacking, and incapable of having, original and specific attributes and as offering no possibility of reaching agreement on any specific, meaningful issue — neither on upgrading methods of work nor on making the discussion substantive.

2. The fact that the international community has recently focused its attention, in various forums, on a number of practical aspects of ensuring the security of space activities (including the identification of factors influencing the emergence, nature and magnitude of risks to space activities, within the framework of the issue of the long-term sustainability of outer space activities) should not lead to the conclusion that the main issue regarding the maintenance of outer space for peaceful purposes is being pushed to the background of the policymaking process.

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3. At the present stage it would be premature to draw conclusions as to the extent to which the essential elements and nature of the context in which issues relating to the security of space activities (including the safety of space operations) are considered and the prospects for addressing those issues are changing or may change for the better in the light of efforts undertaken in existing international forums. One thing is clear: effective rather than merely palliative action to address serious problems cuts across numerous aspects of the policies of States. If attention is given only to certain issues — however purely pragmatic, practical and specific they might be — the international community will be faced with a very fragmented safety framework that makes it impossible to ensure the necessary functionality of the system created, for example, with respect to the long-term sustainability of outer space activities. For those reasons, a comprehensive qualitative analysis and assessment of risks, of the conditions giving rise to those risks and of policies and methods capable of providing solutions is essential. This necessitates the interlinkage of “modular approaches” applied to the potential resolution of issues relating to the security of space activities (including the issue of the long-term sustainability of outer space activities in the Committee on the Peaceful Uses of Outer Space, the issue of transparency and confidence-building measures in outer space activities in the group of governmental experts, the code of conduct for space activities, as discussed, for the time being, outside a fixed negotiating platform, and the Conference on Disarmament in Geneva) on basic conceptual and implementation levels in order to identify, more accurately interpret and systematically analyse complex and diverse phenomena. The current phase of development of policy dialogue and technical cooperation is characterized by the fact that divergent or differing versions of and scenarios for the development of space policy are intertwined in a complex combination of both competitive and collaborative interaction. Nonetheless, it is increasingly felt that the chances for the development of regulation and for the improvement of normative functions in relation to a future-oriented model of confidence and safety in space activities are growing.

4. Discussions in the Committee on the priority issue of ways and means of maintaining outer space for peaceful purposes have consistently been characterized by a polarization of views. There was a time when the adoption of what would have been a perfectly logical decision to establish links between the Committee and the Conference on Disarmament was considered impossible and was opposed. It is worth noting that the States members of the Committee, in their collective efforts to develop the concept of and practices for ensuring the long-term sustainability of outer space activities, have now jointly recognized the possibility of such links between the two bodies with respect to work in that area. Indeed, the situation as a whole has gradually changed, but not in any fundamental way; rather, the change has been superficial and is owed chiefly to the fact that consideration of the topic has successfully been steered away from the emotionally-coloured reality when the positions of States were irremediably irreconcilable. However, that change bears no direct relation to the quality of the dialogue; whatever the case, for the time being there has not yet emerged any meaningful alternative to the situation in which discussions are reduced to “slogans” and trivial statements of facts. The Committee is perfectly capable of formulating positive and unifying ideas that would make it possible to add a specific dimension to work on the issue of ways and means of maintaining outer space for peaceful purposes. The opportunities for renewing the

policies pursued and methodologies used by member States and the Committee itself genuinely exist: they lie in the wide-ranging consideration of specific aspects of the main issue (on an occasional or continuous basis).

5. Not coincidentally, the Russian Federation has described the development of the guidelines on the long-term sustainability of outer space activities as a major and system-wide institutional project comprising a broad range of national and international components. In many ways, discussions on the issue are evolving positively, but it is too early to be able to affirm that delegations are following a common approach in seeking the desired solutions or that they understand each other fully. The groundwork for elaboration of the guidelines is in place, but the issue provokes (in a positive sense) additional questions. In many ways the situation seems to be somewhat ambivalent.

6. In order to enrich the future guidelines on the long-term sustainability of outer space activities with inner meaning, aimed at lending new relevance to the regulation of issues relating to the safety of space operations and the security of space activities in general, it is necessary to address more complex issues that have not yet been examined in sufficient depth. Such an approach entails greater complexity, but ultimately the document will benefit in terms of clarity and perspicuity. Consequently, the question as to what the concept behind the guidelines should be and how they will be applied is of decisive importance. There are two options: the first is to draw up a scheme offering certain possibilities for cooperation that are ultimately limited owing to the virtual absence of a mechanism for implementation, while the second is to endeavour collectively to reflect all interlinkages between the various aspects of the problem of ensuring the long-term sustainability of outer space activities and to optimize to the greatest possible extent the format and content of the guidelines.

7. It is important, first and foremost, to clarify the planned effectiveness of the guidelines and to understand what the cornerstone of the overall structure for their implementation should be. The current preliminary version of the guidelines leaves many issues open and procedures unregulated. To fail to go beyond half measures and to reduce solutions to the mere appearance of achievement of results would mean dooming to failure the idea of effective, comprehensive and faithful implementation of the future guidelines.

8. It would be meaningful to include in the draft guidelines introductory provisions (in the form of a preface or opening section) setting out in a generalized form and with a clear perspective the rationale, motives, modalities and basic functions of the concept behind and practices for ensuring the long-term sustainability of outer space activities. The Russian Federation proposes the following text for consideration:

“The following set of voluntary guidelines establishing the concept of and defining basic criteria and practices, domestic and international, for ensuring the long-term sustainability of outer space activities is premised on the understanding that outer space continuously remains a stable, safe and conflict-free environment open for peaceful uses and international cooperation, as intrinsically interrelated with the making by the international community of full use of opportunities to steadily increase, through dedicated practical measures, the predictability and transparency of, and the building of

confidence in, space activities, as those features are conducive to and instrumental in the application of the guidelines on the long-term sustainability of outer space activities.

“In applying the guidelines in good faith, States and international organizations shall provide for the establishment and effectuation of an appropriate system for internal regulation (including the necessary procedures and requirements) and international cooperation mechanisms in order to execute relevant functions with the aim of performing tasks related to ensuring the long-term sustainability of outer space activities.

“The guidelines, as applied by States and international organizations through the use of appropriate means that would neither neglect nor challenge in any formal or practical way the existing principles and norms of international law, are designed to provide an effective regulatory framework for addressing practical ways and means of achieving the more rational organization of activities in outer space so that States and international organizations are in a position to conduct such activities by making use of existing, and putting in place new, mechanisms that would reliably accommodate needs for the development, through cooperative endeavours, of space potential and assist in reducing to a minimum or, as feasible, avoiding serious harm to the outer space environment and the safety of space operations.

“In achieving the goal of ensuring the long-term sustainability of outer space activities, States and international organizations should refrain from any acts and practices, as well as from the use of means or methods, that could, purposefully or inadvertently, affect in any way, in violation of the principles and norms of international law, and/or harm, in the same manner, assets in outer space and/or lead to the evolvment of circumstances which could render full and effective application of the guidelines impracticable on national security grounds.

“Without prejudice to any of the constituent elements of the concept of and practices for ensuring the long-term sustainability of outer space activities, risk monitoring for the purpose of identifying factors influencing the nature and magnitude of risks in the various segments of outer space activity and potential hazardous situations and developments in the space environment should be perceived as the most challenging task in terms of providing the context for creating incentives with regard to putting into effect and observing operational procedures whereby States and international organizations could, considering applicable legislative and conventional regulations, effectively cooperate, advising and assisting each other in all practical ways possible.”

9. The implementation of the guidelines on the long-term sustainability of outer space activities presupposes the shared use of extremely important information products obtained through the use of sensitive information and network resources and the performance of complex communications and technological operations. Essentially, at issue is the addressing of the task of creating a new information and communication domain within the framework of which States, as well as international organizations will have to cooperate effectively. It is clear that the insufficient elaboration of the principles of and pattern for such cooperation (as is

the case with regard to the current stage of development of the draft guidelines) will have the opposite result: the establishment of relations based on heavy reliance on a single source of information. Consequently, many procedures that are already provided for in an incomplete form in the draft guidelines will acquire a definite vector of geopolitical effect, making no difference whether such development is in the interests of one, two or a number of States. Aspects relating to the risk of succumbing to the logic dictated by business interests and by the pursuit to obtain competitive advantages should not be disregarded. Without the discussion and creation of international mechanisms for data exchange and for the monitoring of space activities, it will be extremely problematic to lend a truly international dimension to the concept of and practices for ensuring the long-term sustainability of outer space activities.

10. The draft guidelines should clearly provide that the policy of States with respect to information transfer should be formulated in such a way as to facilitate in practical terms the timely furnishing (taking into account the need for preventive action) of reliable information (including information conclusively presumed by the transferring party to be reliable). For the purposes of the guidelines being drafted, it could be agreed to establish that information is regarded as "reliable" if that information objectively reflects a specific situation under analysis. It is crucial that the transmitted information is referred to a specific instant or time interval. Moreover, the relevance interval of the furnished data should be indicated. Lastly, there should be an understanding that information exchange is of practical value only if the information is sufficiently complete and accurate. It is precisely those characteristics of the furnished information that will determine the effectiveness of addressing the target tasks. There are some examples of generally positive but in many ways still limited (in terms of the number of participants involved in the information process and the volume and content of the information furnished) and not entirely flawless (in terms of the methods and mechanisms used) practice in that area. It is reasonable to believe on entirely practical grounds that the development of such practice is being hindered for objective reasons because the interests of the participants concerned do not entirely converge and may even compete. In order to ensure that such factors do not affect the effective application of the future guidelines (which should be the concern of the entire international community), it would be prudent to aim for the establishment of a system of mutual relations that would make it possible to resolve relevant issues in a pragmatic and phased way. It will be necessary, firstly, to ensure that considerations which for objective and subjective reasons are not driven by the interests of attaining the objectives of the future guidelines have an acceptable degree of impact on the decision-making process with regard to the transfer and use of information and, secondly, to ensure the conditions necessary for interaction on the basis of consistently increased confidence. A solution to the latter aspect depends not only on the important and necessary measures being elaborated by the Group of governmental experts. The set of guidelines, as it is being formed, itself offers scope for increased confidence.

11. The shaping of a single international mechanism for the exchange of up-to-date data on all functional and non-functional objects (taking into account the possibility of the development of hazardous situations) and of recommendations regarding measures to prevent collisions could become a critical factor in the success of implementation by States and international organizations of the guidelines with regard to the safety of space operations. It would appear that the

establishment and operation, under the auspices of the United Nations, of a single monitoring centre could be a key tool in achieving that objective.

12. The adequate resolution of issues relating to ensuring the safety of space operations and of orbital components of space infrastructure would be unthinkable outside the context of the security also of the ground-based components of such infrastructure. Russia proceeds from a positive presumption that delegations could reach a mutual understanding on that aspect of the problem, on the basis of the following propositions:

“States and international organizations should be encouraged to consider the concept of and practices for ensuring the long-term sustainability of outer space activities as forming an integral whole with the issues of safety and security of ground infrastructure that provides the proper operation of, and receiving and processing of data from, orbital systems, complexes and means. Following the line of responsible and peaceful conduct of space activities, States and international organizations should, as part of providing overall institutional support for the concept of and practices for ensuring the long-term sustainability of outer space activities, adopt decisions that would be reasoned and effectively formalized at policy and doctrine levels so as to exclude any actions that could impair or adversely affect the serviceability of such ground infrastructure under foreign jurisdiction and (or) control.”

13. It would be rather important to address the question of how implementation of the guidelines will correlate with the need to take into account national security considerations. As is known, the initial working version of the guidelines submitted by the United States of America for consideration by expert group B contained a reference to such interests. Subsequently, in the course of discussions, the authors of that provision themselves abandoned references to national security. It is clear, however, that the impact of that factor is nonetheless implied. There is no point in calling into question the validity of references to national security interests as an integral part of national policy — the prerogative of invoking national security considerations is used also in the practice of international cooperation when it is necessary to reserve the possibility of determining the scope and substance of mutual policy obligations given specific security-related circumstances. This raises the logical question of whether it would be preferable to stipulate that a set of conditions and limitations determined by national security considerations will be taken into account objectively by States in the context of practical cooperation with regard to application of the guidelines. The Russian Federation considers that the guidelines could contain a provision along the lines of the following:

“States are encouraged to take account of national security considerations, in the context of pertinent national policy priorities, objectives and measures, proportionally to the purposes and tasks of application of the guidelines and in appropriate correlation with the substance, nature, requirements and particularities of international cooperation provided for by the guidelines.”

14. The national security strategy of the Russian Federation for the period up to 2020, adopted by a Decree of the President of the Russian Federation in 2009, represents an officially recognized system of strategic domestic- and foreign-policy priorities, objectives and measures that determine the state of national security and

the level of sustainable development of the State in the long term. This document provides that in the context of the globalization of processes and the emergence of new threats and risks to the development of the individual, society and the State, the Russian Federation, as guarantor of successful national development, is making the transition to a new State policy on national security. The main directions for ensuring national security are strategic national priorities that define development tasks with the aim of creating secure conditions, inter alia, for activities relating to the country's sustainable development and for the maintenance of the territorial integrity and sovereignty of the State. The following provisions of the document make it possible to understand the actions and measures whereby national security is ensured:

(a) In the long term, Russia will strive to foster international relations on basis of principles of international law and by ensuring the reliable and equal security of States;

(b) In order to protect its national interests, Russia, acting within the framework of international law, will implement a rational and pragmatic foreign policy that precludes costly confrontation;

(c) Russia views the United Nations as a central element of a stable system of international relations;

(d) With regard to international security, Russia will uphold its commitment to the use of political, legal, military and other instruments for protecting State sovereignty and national interests;

(e) The strategic objectives of enhancing national defence consist of preventing wars and conflicts and exercising strategic deterrence in the interests of ensuring the country's military security;

(f) In the international arena, the Russian Federation will consistently take the line of participating together with other States in strengthening international mechanisms, particularly those for preventing the use of military force in violation of the Charter of the United Nations;

(g) Achievement of priorities associated with Russia's sustainable development will be facilitated by active foreign policy aimed at seeking agreement and identifying concurring interests with other States on the basis of a system of mutually beneficial bilateral and multilateral partnership relations.

In the Russian Federation, policies and measures relating to national security are formulated in such a way that international law is taken into account as a primary consideration in decision-making.

15. The "Policy framework of the Russian Federation relating to space activities for the period up to 2030 and beyond", approved by the President of the Russian Federation in April 2013, establishes such fundamental policy principles as the protection of State interests in the field of space activities through all measures and means available under international law, including the right to self-defence as recognized in the Charter of the United Nations, and strict compliance with the international obligations undertaken by Russia in the field of to space activity and with the universally recognized principles and norms of international law. In that context, the detection of unauthorized impact on spacecraft of the Russian

Federation and the protection thereof has been identified as one of the tasks in ensuring the safety of space activities.

16. Given the status, sphere of competence and current mandates of the Committee, it would be entirely appropriate to entrust this body of the United Nations General Assembly with the function of examining and consolidating results of analytical monitoring of the extent to which outer space is really being maintained for peaceful purposes and drafting appropriate proposals and determining the means for implementing them. In keeping with the main purpose of the priority agenda item, the Committee, with the involvement of all member States, would be in a position to compile, for the purposes of analysis, a consolidated list of specific issues that affect, directly or indirectly, the prospects for maintaining outer space for peaceful purposes. Without prejudice to the prerogatives of other forums for multilateral space diplomacy, the Committee could, by accumulating information and activating expert capacity (including through the holding of panel discussions), assess the range of, and establish the rationale for, changes characterizing the sphere of national interests, the extent to which they coincide and the degree of cooperation among States in that regard. At the present stage, the Committee could become a platform for discussions, particularly of the following key issues:

(a) Doctrinal objectives of States aimed at maintaining outer space for peaceful use;

(b) Factors determining the evolution of concepts for the use of outer space;

(c) Existing biases that could lead to the misperception by States of each other's intentions in outer space and possibilities for joint purposeful action, aimed at assisting in dispelling such misperceptions;

(d) The legal basis and modalities for exercising the right to self-defence in accordance with the Charter of the United Nations with regard to outer space (taking into account the fact that the fundamental principles and norms of international law may quite often acquire particular interpretations in the context of practice by States).

It would be inadvisable to rule out, a priori, the possibility of achieving constructive cooperation on a number of issues to an extent sufficient to enable the Committee to establish a common understanding (in the form of guidance and regulations or in some other sufficiently binding — owing to positive attributes — form that would play a practical role and effectively facilitate the conceptualization and institutionalization of new approaches to specific areas of regulation. Discussion may turn out to be not so easy-going, distinguished by a non-trivial pattern, but if it is based on a pragmatic approach, the Committee is very likely to gain experience that is unique in terms of its quality and comprehensiveness and to obtain interesting and useful results.