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The role of TCBMs in promoting the rule of law in outer space activities

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CORNERSTONE ISSUES OF SPACE SECURITY

- Securing the long-term sustainability of critical orbital regions for continued beneficial use

- Securing freedom of access to and use of space for socioeconomic benefit for all of humanity

WHY DOES SPACE SECURITY MATTER?

- Sustainability of action
  - For human space activities, military or civil, the space environment needs to be made sustainable in the long-term
    - Highest profile issue is clearly debris
      - Debris is apolitical: does not discriminate in whose space assets it damages and whose space services it interrupts

  - The importance of space as a tool for emerging space States to provide human security to their people
    - Border security
    - Water and other Earth resource management
    - Military activities
    - Disaster warning, management, and relief

THE INTERNATIONAL OVERVIEW

- From a policy perspective, space security is becoming more and more prominent.

- Key considerations need to be taken into account in the international policy arena in the formulation of cooperative space security initiatives:
  - Organizational proliferation
  - Options of legal and policy models
  - International political climate
  - Lack of consensus international appetite for new treaties

- How does one achieve a balance between the interests of those States already heavily invested in the space environment and emerging space States?

THE INTERNATIONAL OVERVIEW (II)

- As more and more States rely on space services and more States become space-faring, it is crucial to avoid:
  - space becoming a conflict zone and;
  - space instability acting as a trigger for terrestrial conflict

Transparency and Confidence-Building Measures (TCBMs)

A DEFINITION FOR TCBMS

- TCBMs objective:
  - *"the final objective of confidence-building measures is to strengthen international peace and security and to contribute to the development of confidence, better understanding and more stable relations between nations, thus creating and improving the conditions for fruitful international co-operation."*
    - UN GGE Comprehensive Study on CBMs, A/36/474, 1982

- There is general consensus that TCBMs do not preclude the future development of binding international law in the space sector.

- TCBMs are a stepping stone to improved predictability, safety, security and are achievable milestones in improving space-related instability

VIEWS ON THE PURPOSE OF TCBMS

- TCBMs can contribute to reducing threat perceptions and help to build trust among states.
- TCBMs facilitate international cooperation and thus enhance international peace and security.
- TCBMs complement and contribute to disarmament and arms limitation agreements and are conducive to improved information-sharing between states.
- TCBMs reduce the risk of a mistaken perception and assessment of another state's military activity in space.

VIEWS ON THE PURPOSE OF TCBMS (II)

- Joint development of TCBMs could help to enhance **understanding of states' intentions in space**, for the reasons that predictability of military activities in outer space would **substantially reduce the likelihood of the emergence of sudden military threats** in or from outer space and uncertainty with regard to the strategic situation in outer space

- TCBMs help to create an environment **conducive to resolving international problems** and improving and developing international relations on the basis of cooperation while facilitating the management of situations that could lead to international tension.

Current TCBM-related Initiatives

TRANSPARENCY AND CONFIDENCE BUILDING MEASURES (TCBMS)

- Russian proposal for a GGE (Group of Governmental Experts)
- UNGA First Committee Resolution in 2010, GGE started in July 2012 and concluded in 2013
- General Assembly Resolution A/65/68 of 8th December 2010 established the group.
  - 3 sessions of 1 week over 2012-2013 with 15 Member States (UK, France, China, Russia, US (P5), Sri Lanka, Kazakhstan, Nigeria, South Africa, Ukraine, Chile, Brazil, Italy, South Korea, Romania).
- Final Report of the GGE: UN A/68/189*: www.unidir.org/files/medias/pdfs/outer-space-2013-doc-2-a-68-189-eng-0-580.pdf

THE GGE'S TCBMS DEFINITION

- **TCBMs are non-legally binding voluntary measures.**

- Two types:
  - those dealing with capabilities
  - those dealing with behaviour

CATEGORIES OF SPACE TCBMS

a) General transparency and confidence-building measures aimed at enhancing the availability of information on the space policy of States involved in outer space activities;

b) Information exchange about development programmes for new space systems, as well as information about operational space-based systems providing widely used services such as meteorological observations or global positioning, navigation and timing;

c) The articulation of a State's principles and goals relating to their exploration and use of outer space for peaceful purposes;

CATEGORIES OF SPACE TCBMS (II)

d) Specific information-exchange measures aimed at expanding the of information on objects in outer space and their general function, particularly those objects in Earth orbits;

e) Measures related to establishing norms of behaviour for promoting spaceflight safety such as launch notifications and consultations that aim at avoiding potentially harmful interference, limiting orbital debris and minimizing the risk of collisions with other space objects;

f) International cooperation measures in outer space activities, including measures aimed at promoting capacity-building and disseminating data for sustainable economic and social development, that are consistent with existing international commitments and obligations.

EUROPEAN PROPOSAL FOR AN INTERNATIONAL CODE OF CONDUCT

- Response to UN Secretary General's call for submissions on TCBMs for Outer Space
- Initially agreed Dec. 2008, re-released in several drafts after consultations

- General Principles
  - Commitment to make progress towards adherence and full implementation of current treaties and norms
  - Commitment to prevent space from becoming an area of conflict
  - Recognition that space is essential to national security and strategic stability
  - Development of conflict resolution processes, recognizing right of self defense

OTHER INITIATIVES OF NOTE

- UNCOPUOS Long-Term Space Sustainability Working Group
- Non-governmental initiatives such as the Space Data Association

CONFERENCE ON DISARMAMENT PROPOSALS

- “The Merits of Certain Draft Transparency and Confidence Building Measures and Treaty Proposals for Space Security”
  - Introduced to CD March 2008
  - CD should consider security guarantees, such as a declaration of legal principles, a code of conduct, or a treaty, that would
    - ban the placement of weapons in space;
    - prohibit the test and use of weapons on satellites so as to damage or destroy them;
    - prohibit the use of satellites themselves as weapons

TCBMS: DEVELOPING LEGAL REGIMES

- Non-legally binding TCBMs for outer space activities should complement the existing international legal framework pertaining to outer space activities, and not undermine existing legal obligations or hamper the legal use of outer space.

- Voluntary TCBMs can form the basis for consideration of concepts and proposals for legally binding obligations.
  - GGE report conclusions

Conclusions
and Food for Thought

CONCLUSIONS I

- **KEY CHALLENGE:**

  - International political consensus needed for progress on legally binding measures.
    - Is this likely and, if so, can it be achieved in a timely manner?

  - Given that space is so globalised, it is imperative that ALL actors are engaged and invested in new security initiatives
    - The risk associated with a ‘rogue actor’ in orbital activities

CONCLUSIONS II

- The diversification of players is having a profound impact on how space activities and their consequent international regulation is played out.
  - Do we need different kinds of agreements and are the agreements we have really appropriate?
  - What kind of legal agreements do we see evolving in the future?
- In the policy community, it is increasingly realised that civil and international security related space activities have a common basis.

TCBMs are a key achievable first step towards security and predictability in outer space activities and are a critical foundation for a future resilient and effective space security regime

Many Thanks

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