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***Activities of States in Outer Space in Light of New Developments:
Meeting International Responsibilities and Establishing National Legal and Policy Frameworks***

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THE DRAFT CODE OF CONDUCT FOR OUTER SPACE ACTIVITIES

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SUMMARY

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1. The aims of the initiative

The European Union considers that strengthening the security, safety and sustainability of activities in outer space is an important objective in the context of expanding space activities.

The proposal of a draft Code on space activities was conceived as a reply to the United Nations General Assembly resolution 61/75 of 6 December 2006, which called Member States to submit proposals on transparency and confidence building measures (TBCM) within the context of the prevention of an arms race in outer space (PAROS). In 2007, the EU's Portuguese Presidency prepared a *Food for Thought on a Comprehensive Code of Conduct for Space Objects* (2nd REV.), based, among others, on the principles of freedom to use outer space for peaceful purposes; preservation of the security and integrity of space objects in orbit and due consideration for the legitimate security and defence interests of States. The General Assembly reiterated its call in

resolution 62/43 “TCM in Outer Space Activities” of 5th December 2007, and in the similar resolutions adopted in 2008, 2009 and 2010.

The draft Code is a self-sustained initiative. Multilateral bodies, such as the UN Committee on the Peaceful Uses of Outer Space (COPUOS), the Conference of Disarmament (CD), European Space Agency (ESA) and others would be informed on progress with this initiative.

A diplomatic *ad hoc* Conference of adhesion might be considered if a sufficient number of countries show interest in the Code, following the model of the Hague International Code of Conduct against Ballistic Missiles Proliferation (HCoC), November 25, 2002.

The EU is consulting the draft with space faring nations with the aim of reaching a consensus text that would be acceptable for as many States as possible. Two rounds of consultations were held during the years 2008 and 2009. Since then, the group of consulted States has been considerably enlarged.

A consolidated Draft of the Code, including comments and proposals by third consulted States was endorsed by the Council of the European Union the 27 September 2010. The text is available at <http://www.consilium.europa.eu/uedocs/cmsUpload/st14455.en10.pdf>.

The process for the adoption of the Code is composed by three main steps: consult with space faring nations, build the support and finalize the draft; convene a diplomatic conference, adopt the Code and open the Code to subscribers; implement the Code.

2. The legal status of the Code and its relationship with other instruments

The Code is voluntary and open to all States. It is not a binding treaty. It contains however commitments that Subscribing States accept to abide to and general principles that could be detailed in subsequent legal instruments, such as treaties and conventions, in other non binding instruments such as guidelines, as well as in national legislation.

The EU’s initiative is not alternative to the proposal on a draft Treaty on the Prevention of the Placement of Weapons in Outer Space, the Threat or Use of Force Against Outer Space Objects (PPWT) presented by China and Russia on 12 February 2008 within the CD.

On the contrary, the project is seen as a way for favouring the adoption of voluntary rules of behaviour as a first step towards an international binding treaty.

Its added value

What then makes the EU Code of conduct so significant?

The answer lies in three aspects of the Code.

The **first** aspect is the all encompassing scope of the Code, a scope that is readily apparent from the titles of the various parts of the Code.

While other instruments have dealt with specific aspects, this is the first time that a systematic approach has been adopted to cover all dimensions of space operations. It applies to military as well as civil operations in outer space and is based on the principles of freedom of access to, exploration and use of outer space and exploitation of space objects for peaceful purposes, and no harmful interference against space objects. It aims at the establishment and implementation of procedures to minimize the possibility of accidents in space, collisions between space objects or any form of harmful interference with other States' right to the peaceful exploration and use of outer space.

The **second** aspect is the Code's stress on the preventive approach and the introduction of a new understanding of the complex nature of the space activities and the uncertainties inherent in the management of such activities. For this reason, they should be carried out with a high standard of care and due diligence, transparency and with the aim of building confidence.

The **third** aspect is the dynamic nature of the Code.

The progress in implementing the Code will be monitored through the meetings of the Parties and the Code will be revised and updated as necessary in light of the forthcoming developments. All Parties will collaborate in the fulfilment and implementation of the objectives and principles contained in the Code.

3. Main features of Draft Code

The Code is applicable to all outer space activities conducted by a Subscribing States or jointly with other States(s) or by non-governmental entities under the jurisdiction of a Subscribing State, including those activities conducted within the framework of international intergovernmental organisations.

The project of the Code of Conduct has the following purposes:

- to strengthen the existing UN treaties and principles on outer space, as the subscribing parties would commit to comply with them, and to promote their universal adherence;

- to complement them by codifying new best practices ensuring the safety, security and sustainability of space activities.

General measures

The Subscribing States commit in conducting outer space activities, to:

- refrain from any action which intends to bring about, directly or indirectly, damage, or destruction, of outer space objects unless such action is conducted to reduce the creation of outer space debris and/or is justified by the inherent right of individual or collective self-defence in accordance with the United Nations Charter or imperative safety considerations;
- take appropriate measures to minimize the risk of collision;
- and abide by and implement all International Telecommunications Union recommendations and regulations on allocation of radio spectra and orbital assignments.

When executing manoeuvres of space objects in outer space, for example to supply space stations, repair space objects, mitigate debris, or reposition space objects, the Subscribing States confirm their intention to take all reasonable measures to minimise the risks of collision.

Furthermore, they resolve to promote the development of guidelines for space operations within the appropriate fora for the purpose of protecting the safety of space operations and the long-term sustainability of outer space activities.

In order to limit the creation of space debris and reduce its impact in outer space, the Subscribing States commit to:

- refrain from the intentional destruction of any on-orbit space object or other activities which may generate long-lived space debris;
- adopt and implement, in accordance with their own internal processes, the appropriate policies and procedures or other effective measures in order to implement the Space Debris Mitigation Guidelines of the United Nations Committee for the Peaceful Uses of Outer Space as endorsed by UNGA Resolution 62/217.

Cooperation mechanisms

The Draft Code also regulates some cooperation mechanisms, such as the notification of outer space activities, the registration of space objects, the information on outer space activities, and a consultation mechanism, which is aimed at offering an additional tool with respect to the consultation mechanism set out in Article IX of the OST.

Organisational aspects

The Subscribing States decide to hold regular meetings to define, review and further develop the Code and ensure its effective implementation.

A central point of contact should be nominated by Subscribing States to:

- receive and announce the subscription of additional States;
- maintain the electronic information-sharing system;
- serve as secretariat at the meetings of Subscribing States; and
- carry out other tasks as determined by the Subscribing States.

The Subscribing States commit to creating an *electronic database and communications system*, which should be used exclusively for their benefit in order to collect and disseminate notifications and information submitted in accordance with the provisions of the Code and serve as a mechanism to channel requests for consultations.