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Before the
House Armed Services Committee – Subcommittee on Strategic Forces
and House Foreign Affairs Committee – Subcommittee on International Development,
International Organizations, and Global Corporate Social Impact
on “Creating a Framework for Rules Based Order in Space”
May 5, 2021

Chairman Castro, Chairman Cooper, Ranking Member Malliotakis, and Ranking Member Turner, thank you for the opportunity to testify today on the Rules Based Space Order. I am grateful for the opportunity to testify alongside Mr. John Hill who is Performing the Duties Of the Assistant Secretary of Defense for Space Policy, Lieutenant General Stephen Whiting, the Commander of Space Operations Command, and Principal Deputy Assistant Secretary of State Jonathan Moore from the Bureau of Oceans, International Environmental and Scientific Affairs (OES).

It is incredibly appropriate that we are meeting on May 5, the 60th anniversary of Astronaut Alan Shepard’s flight in Freedom 7. This suborbital flight was the first step that eventually led to American astronauts orbiting the Earth and landing on the moon, to today, where we have astronauts in continuous orbit around our planet.

This flight took place in a time when there were only two countries placing satellites and humans in orbit. It also took place in a time when the legal regime regarding outer space was just starting to be developed. By 1963, the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space, and Under Water, which is sometimes called the Limited Test Ban Treaty (LTBT), took the first step in extending legally-binding arms control to outer space. The LTBT, which remains in force, includes a prohibition on any nuclear weapon test explosion, or any other nuclear explosion, beyond the limits of the atmosphere, including outer space. Several years later, in 1967, the Outer Space Treaty, formally known as the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, was signed, recognizing the common interest of all humankind in the use of outer space for peaceful purposes and establishing the fundamental principles that outer space shall be free for exploration and use by all nations without discrimination, and that such exploration and use will be done in accordance with international law. The Outer Space Treaty also includes provisions on arms control, including a prohibition on placing nuclear weapons or any other kinds of weapons of mass destruction in orbit around the Earth, installing such weapons on celestial bodies, or stationing them in outer space in any other manner.

Arms Control Tools for Addressing Competition in Outer Space

The development and implementation of arms control agreements is one of the main concerns of the Arms Control, Verification and Compliance Bureau, which I am representing today. AVC is responsible for deterring conflict and enhancing strategic stability using arms control tools, including legally-binding treaties. We develop ideas for arms control agreements and monitor other countries’ compliance with and adherence to arms control agreements and commitments.

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We have a keen appreciation for the importance of space to U.S. national security, as we rely upon information collected by the Intelligence Community to monitor compliance. We are also responsible for leading U.S. Government efforts for the development and implementation of voluntary, non-legally binding measures to enhance the safety and security of outer space, such as transparency and confidence building measures.

For many years, the international narrative on space security has been focused on a number of flawed proposals, including legally-binding ones like the 2014 Russian and Chinese-sponsored draft Treaty on the Prevention of the Placement of Weapons in Outer Space and of the Threat or Use of Force Against Outer Space Objects, which is known as the PPWT. With specific regard to outer space arms control, consistent with longstanding bipartisan policy, which is reflected in the 2020 National Space Policy, the United States will consider proposals and concepts for arms control measures if they are equitable, effectively verifiable, and enhance the national security of the United States and its allies.

The draft PPWT fails this test. The State Department has a long record of enumerating the many flaws of this draft treaty, and we have worked over the years to explain those flaws at the Conference on Disarmament, at the UN First Committee, and directly with allies and partners. We have made clear the failure of its attempt to define what constitutes a “weapon in outer space,” and the likelihood that the inherent difficulties of articulating such a definition will hinder promising technologies such as on-orbit servicing or active debris removal systems. We have noted the draft PPWT’s lack of any verification provisions, its unworkable call for a verification protocol at a later date, and the challenges inherent in establishing any effective verification measures. Russia and China have themselves acknowledged at the Conference on Disarmament that their proposal could not be effectively verified using currently available technology. Further, the draft PPWT does not clearly address ground-based systems, like the ground-based anti-satellite missile system China tested in 2007 and a similar missile which Russia tested twice last year. In addition to the significant deficiencies that we have highlighted in the draft text, Russia and China’s continued development and deployment of these systems, as well as the two weapons tests that Russia has conducted in outer space since 2018, all accomplished while they continue to promote the draft PPWT, lay bare the hollow and hypocritical nature of these efforts.

Responsible Behavior

Given the challenges associated with outer space arms control, the U.S. Government has been focused on the development and promotion of a framework for responsible behavior in outer space, in line with the goal set out in the 2020 National Space Policy that the United States “[c]reate a safe, stable, secure, and sustainable environment for space activities, in collaboration with industry and international partners.”

In furtherance of this goal, the National Space Policy also directs heads of agencies, in collaboration with the Secretary of State, to “[l]ead the enhancement of safety, stability, security, and long-term sustainability in space by promoting a framework for responsible behavior in outer space, including the pursuit and effective implementation of best practices, standards, and norms of behavior.”

President Biden's 2021 Interim Strategic National Security Guidance also affirms that the United States will lead in promoting shared norms and forge new agreements on outer space.

The United States believes that the development and implementation of "norms, rules or principles of responsible behavior" can reduce risks to international security and stability, including by playing an important role in increasing predictability, enhancing operational safety, and reducing risks of misperceptions, thus contributing to the prevention of conflict. There are clear advantages to focusing on voluntary, non-legally binding measures with respect to outer space. For example, a non-legally binding arrangement affords flexibility throughout the process of development and implementation. It can take effect as soon as discussions are concluded, and participants decide to commence cooperation, and it can become effective for additional states as soon as they sign up; in that way, the benefits of the commitments can be immediately realized. Such measures can also be modified more easily, which can provide the ability to adapt quickly to changing circumstances or technologies, allowing new and novel uses of space to be explored. Additionally, such measures can provide for a greater role for civil society and commercial operators in both their development and implementation.

UN General Assembly Resolution 75/36

That is why in 2020, the AVC Bureau worked closely with the U.S. interagency, including colleagues from the Department of Defense and Intelligence Community, and with our close allies, to advance a new United Nations General Assembly (UNGA) resolution. This resolution was presented in UNGA's First Committee, which is responsible for all disarmament and international security issues in the United Nations. The intention behind this new resolution was to establish an inclusive, international process through the UNGA First Committee that can enhance the safety and security of operations in outer space.

The new resolution, introduced as Resolution 75/36 and titled "Reducing space threats through norms, rules and principles of responsible behaviors," is a constructive step to provide UN Member States a pragmatic and productive alternative to stalled and flawed Russian and Chinese arms control proposals. It was adopted by the UN General Assembly with overwhelming support, with only twelve countries voting against this resolution, including Russia, China, Iran, Syria, North Korea, Cuba and Venezuela.

Resolution 75/36 can serve as the first step of a process to describe the threats to space systems, then develop ideas for responsible behaviors designed to manage perceived threats and risks to space systems, as well as to consider the establishment of channels for direct communications to manage perceptions.

Specifically, operative paragraph 5 of the resolution:

"Encourages Member States to study existing and potential threats and security risks to space systems, including those arising from actions, activities or systems in outer space or on Earth, characterize actions and activities that could be considered responsible, irresponsible or threatening and their potential impact on

international security, and share their ideas on the further development and implementation of norms, rules and principles of responsible behaviors and on the reduction of the risks of misunderstanding and miscalculations with respect to outer space;”

On May 3, 2021, the State Department submitted the U.S. views to the UN Secretary General. We have provided Committee Staff with copies of this report, so I will not get into detail about it now but would be happy to discuss it during the question and answer session. Later this year, the Secretary General will provide member states with a summary of all Member State submissions. We look forward to that report, which will help inform our discussion with our interagency colleagues and with our close allies on next steps.

Conclusion

For many years, the international community has been focused on flawed legally-binding space arms control proposals touted as the only way to address space security matters. The United States and our allies recognize the many fundamental challenges of such an approach, including difficulties in defining what constitutes a weapon in outer space and developing practical and effective means of verification. At the same time, the outer space environment has grown in complexity with new operators and new systems that provide many benefits to the United States and to countries around the world. Space is also contested, with Russia and China developing anti-satellite weapons designed to disrupt the United States’ freedom to use space.

That is why the Department of State will continue to lead in the development and implementation of a framework for responsible behavior in outer space, primarily focused upon voluntary, non-legally binding norms, rules, and principles of responsible behavior in space. Developing and implementing these sorts of measures can help create a safer, more stable and predictable space environment for all space actors. In coordination with the interagency, we will work with other countries to advance these initiatives in ways that will benefit U.S. national security.