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THE EUROPEAN UNION**

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NOTE

from:	General Secretariat
to:	Delegations
Previous doc.	17175/08 PESC 1697 CODUN 61
Subject:	Council Conclusions concerning the revised draft Code of Conduct for Outer Space Activities

Delegations will find attached the Conclusions adopted by the Council on 27 September 2010, together with the revised draft for a Code of Conduct for Outer Space Activities, which has been endorsed as a basis for consultations with third countries.

Council Conclusions of 27 September 2010
on the revised draft Code of Conduct for Outer Space Activities

The Council recalls that the European Union is aiming at strengthening the security of activities in outer space in the context of expanding space activities that contribute to the development and security of states. The European Union's space policy can contribute towards this objective.

The Council invites the High Representative to pursue consultations with third countries on the basis of the annexed revised draft for a Code of Conduct for Outer Space Activities, which has been established in the light of wide consultations with space faring nations. All States will be invited to adhere on a voluntary basis to the Code, which includes transparency and confidence-building measures.

In the upcoming consultations, the High Representative will engage with third countries that have an interest in outer space activities, with the aim of establishing a text that is acceptable to the greatest number of countries and of adopting the Code of Conduct at an ad-hoc diplomatic conference.

REVISED DRAFT
CODE OF CONDUCT FOR OUTER SPACE ACTIVITIES

Preamble

The Subscribing States

Noting that all States should actively contribute to the promotion and strengthening of international cooperation relating to the activities in the exploration and use of outer space for peaceful purposes;

Considering that these activities play a growing role in economic, social and cultural development of nations, preservation of the environment, promotion of international cooperation, strengthening of national security and sustaining international peace;

Recognizing the need for the widest possible adherence to relevant existing international instruments that promote the peaceful uses of outer space in order to meet emerging new challenges;

Further recognising that space capabilities - including associated ground and space segments and supporting links - are vital to national security and to the maintenance of international peace and security;

Recalling the initiatives aiming at promoting a peaceful, safe and secure outer space environment, through international cooperation;

Recalling the importance of developing transparency and confidence-building measures for activities in outer space;

Taking into account that space debris constitutes a threat to outer space activities and potentially limits the effective deployment and exploitation of associated space capabilities;

Stressing that the growing use of outer space increases the need for greater transparency and better information exchange among all actors conducting outer space activities ;

Convinced that the formation of a set of best practices aimed at ensuring security in outer space could become a useful complement to international space law;

Noting that such best practices could apply to all types of outer space activities;

Reaffirming their commitment to resolve any conflict concerning actions in space by peaceful means;

Recognising that a comprehensive approach to safety and security in outer space should be guided by the following principles: (i) freedom of access to space for peaceful purposes, (ii) preservation of the security and integrity of space objects in orbit, (iii) due consideration for the legitimate defence interests of States;

Conscious that a comprehensive code, including transparency and confidence-building measures could contribute to promoting common and precise understandings;

Adopt the following Code of conduct for outer space activities (hereinafter referred to as "the Code").

I. Purpose, Scope and Core Principles

1. Purpose and scope

- 1.1. The purpose of this Code is to enhance the security, safety and sustainability of all outer space activities.
- 1.2. The present 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.
- 1.3. This Code, in endorsing best practices, contributes to transparency and confidence-building measures and is complementary to the existing framework regulating outer space activities.
- 1.4. Adherence to this Code and to the measures contained in it is voluntary and open to all States.

2. General principles

The Subscribing States resolve to abide by the following principles:

- the freedom for all States to access, to explore, and to use outer space and to exploit space objects for peaceful purposes without interference, fully respecting the security, safety and integrity of space objects in orbit consistent with international law and security, safety and integrity standards;
- the inherent right of individual or collective self-defence in accordance with the United Nations Charter;
- the responsibility of States to take all the appropriate measures and cooperate in good faith to prevent harmful interference in outer space activities; and

- the responsibility of States, in the conduct of scientific, commercial and military activities, to promote the peaceful exploration and use of outer space and to take all appropriate measures to prevent outer space from becoming an area of conflict.

3. Compliance with and promotion of treaties, conventions and other commitments relating to outer space activities

3.1. The Subscribing States reaffirm their commitment to:

- the existing legal framework relating to outer space activities;
- making progress towards adherence to, and implementation of:
 - (a) the existing framework regulating outer space activities, inter alia:
 - the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (1967);
 - the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (1968);
 - the Convention on International Liability for Damage Caused by Space Objects (1972);
 - the Convention on Registration of Objects Launched into Outer Space (1975);
 - the Constitution and Convention of the International Telecommunications Union and its Radio Regulations (1995), as amended;
 - the Treaty banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water (1963) and the Comprehensive Nuclear Test Ban Treaty (1996); and
 - the International Code of Conduct against Ballistic Missile Proliferation (2002).

(b) Declarations and Principles, inter alia:

- the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space as adopted by UNGA Resolution 1962 (XVIII), (1963);
- the Principles Relevant to the Use of Nuclear Power Sources in Outer Space as adopted by UNGA Resolution 47/68 (1992);
- the Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the Interest of All States, Taking into Particular Account the Needs of Developing Countries as adopted by UNGA Resolution 51/122 (1996); and
- the Recommendations on the Practice of States and International Organisations in Registering Space Objects as stated in UNGA Resolution 62/101 (2007);

3.2. The Subscribing States also reiterate their support to encouraging coordinated efforts in order to promote universal adoption of, and full adherence to, the above mentioned instruments.

II. General Measures

4. Measures on space operations

4.1. The Subscribing States are committed to establishing and implementing their policies and procedures to minimise 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.

4.2. 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.

4.3. 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.

4.4. The Subscribing States 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.

4.5. The Subscribing States resolve to promote further security guarantees within the appropriate fora for the purposes of enhancing the security of outer space activities by all States and the prevention of an arms race in outer space.

5. Measures on space debris control and mitigation

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.

III. Cooperation mechanisms

6. Notification of outer space activities

6.1. The Subscribing States commit to notify, in a timely manner, to the greatest extent feasible and practicable, all potentially affected Subscribing States on the outer space activities conducted which are relevant for the purposes of this Code, inter alia:

- scheduled manoeuvres which may result in dangerous proximity to the space objects of both Subscribing and non-Subscribing States;
- pre-notification of launch of space objects;
- collisions, break-ups in orbit, and any other destruction of space objects generating measurable orbital debris which have taken place;
- predicted high-risk re-entry events in which the re-entering object or residual material from the re-entering object either likely would survive to cause potential significant damage, or might cause radioactive contamination; and
- malfunctioning of orbiting space objects which could result in a significantly increased probability of a high risk re-entry event or a collision between space objects in orbit.

6.2. The Subscribing States commit to provide the notifications described above through diplomatic channels, or by any other method as may be mutually agreed.

7. Registration of space objects

The Subscribing States commit to register space objects in accordance with the Convention on Registration of Objects launched to Outer Space and to provide the United Nations Secretary-General with the relevant data as set forth in this Convention and in the Recommendations on the Practice of States and International Organisations in Registering Space Objects, as adopted by UNGA Resolution 62/101.

8. Information on outer space activities

8.1. The Subscribing States resolve to share, on an annual basis, where available and appropriate information on:

- their space policies and strategies, including basic objectives for security and defence related activities in outer space;
- their space policies and procedures to prevent and minimise the possibility of accidents, collisions or other forms of harmful interference;
- their space policies and procedures to minimise the creation of space debris; and
- efforts taken in order to promote universal adherence to legal and political regulatory instruments concerning outer space activities;

8.2. The Subscribing States may also consider providing timely information on space environmental conditions and forecasts to the governmental agencies and the relevant non-governmental entities of all space faring nations, collected through their space situational awareness capabilities.

9. Consultation mechanism

9.1. Without prejudice to existing consultation mechanisms provided for in Article IX of the Outer Space Treaty of 1967 and in Article 56 of the ITU Constitution, the Subscribing States have decided on the creation of the following consultation mechanism:

- A Subscribing States that may be directly affected by certain outer space activities conducted by one or more Subscribing State(s) and has reason to believe that those activities are, or may be contrary to the core purposes of the Code may request consultations with a view to achieving mutually acceptable solutions regarding measures to be adopted in order to prevent or minimise the inherent risks of damage to persons or property, or of potentially harmful interference to a Subscribing State's outer space activities.

- The Subscribing States involved in a consultation process commit to:
 - consulting through diplomatic channels or by other methods as may be mutually determined; and
 - working jointly and cooperatively in a timeframe sufficiently urgent to mitigate or eliminate the identified risk initially triggering the consultations.
- Any other Subscribing State(s) which has reason to believe that its space activities would be affected by the identified risk and requests to take part in the consultations is entitled to take part, with the consent of the Subscribing State(s) which requested consultations and the Subscribing State(s) which received the request.
- The Subscribing States participating in the consultations are to seek mutually acceptable solutions in accordance with international law.

9.2. In addition, the Subscribing States may propose, on a voluntary basis, to create a mechanism to investigate proven incidents affecting space objects and to collect reliable and objective information facilitating their assessment. The mechanism, to be determined at a later stage, should utilize information provided on a voluntary basis by the Subscribing States, subject to national laws and regulations, and a roster of internationally recognised experts to undertake an investigation. The findings and any recommendations of these experts are to be advisory, and are not binding upon the Subscribing States involved in the incident that is the subject of the investigation.

IV. Organisational aspects

10. Biennial meeting of Subscribing [States] [Parties]

10.1. The Subscribing States decide to hold meetings biennially or as otherwise agreed by Subscribing States, to define, review and further develop this Code and ensure its effective implementation. The agenda for such biennial meetings could include: (i) review of the implementation of the Code, (ii) evolution of the Code and (iii) additional measures which appear necessary, including those due to advances in the development of space technologies and their application.

- 10.2. The decisions at such meetings will be taken by consensus of the Subscribing States present.
- 10.3. The results of the meeting will be brought to the attention of relevant international fora including the United Nations Committee on Peaceful Uses of Outer Space (COPUOS) and the Conference on Disarmament (CD) in an appropriate manner.

11. Central point of contact

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.

12. Outer Space Activities Database

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 this Code; and
- serve as a mechanism to channel requests for consultations.

13. Participation by Regional Integration Organisations and International Intergovernmental Organisations

In this Code, references to Subscribing States shall be deemed to apply to the following:

- To the European Union in view of its competences over matters covered by the present code, without prejudice to the competences of its member States.
- With the exception of articles 10 to 12 inclusive: To any regional integration organisation or international intergovernmental organisation which conducts outer-space activities if a majority of the States members of the organisation are Subscribing States to this Code.