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Shaping a Code of Conduct for Space

Work is progressing on a Code of Conduct for responsible spacefaring nations, a step that could either take the form of political compacts or executive agreements among like-minded states that wish to continue to enjoy the national security and economic benefits that satellites provide.

A leader in advocating a Code of Conduct for space is Michael Krepon, co-founder of the Henry L. Stimson Center, a non-partisan, non-governmental organization that works on international security issues. He is also diplomatic scholar at the University of Virginia. Krepon has been diligently working on drafting the Code of Conduct, working in collaboration with Non-Government Organizations (NGOs) from Russia, Canada, France and Japan. "We needed to 'internationalize' the previous draft, and I think we have improved the Code in many respects," he told the Secure World Foundation in March 2008.

Throughout 2008, Krepon said his goals are to gain more endorsements of the Code, and for NGOs that have already endorsed the concept, to seek agreement on its key elements within their governments. "In my view, the most important element is 'no harmful interference' of space objects. This will be hardest for the Pentagon to swallow. We did not try to provide a definition of harmful interference. Some terms are best left undefined," he added.

Code Versus Treaty

What is the value of a "code" versus a treaty? Krepon said that the Code can evolve into a treaty. "Most of those pushing for a treaty wish to ban space weapons. The Russian and Chinese draft treaty seeks to do this. Treaties negotiated at the Conference on Disarmament in Geneva require consensus. I seriously doubt whether any U.S administration can agree to ban space weapons AND get two-thirds of the Senate to vote in favor."

In addition, Krepon noted that there's no way to avoid a definition of space weapons, specifically anti-satellites (ASATs), if the core provision of a treaty seeks to ban this activity. "An encompassing definition would capture way too much, since lots of things can be used as space weapons. A narrow definition ('dedicated' ASATs) won't capture nearly enough. So the definitional problems are far greater with a treaty," Krepon explained.

The biggest definition problem with "no harmful interference" is whether this includes radio frequency jamming. A code that seeks to ban jamming is unlikely to go very far, Krepon observed.

"A code, unlike a treaty, also gives an administration more flexibility to deal with rule breakers. If a state violates a treaty provision to the severe detriment of U.S. national security, it would be hard politically, and time consuming procedurally, to pull out of the treaty. A Code of Conduct does not bind signatories to disregard harmful actions. So if a state decides to play by different rules, the U.S. could respond in kind. But having a Code helps set norms, which makes it more difficult for states to break the rules...and appropriate responses easier," Krepon concluded.

Operating on the high seas of space

Ray Williamson, Executive Director of the Secure World Foundation, said he and the organization strongly support Krepon's efforts and his strategy to push the Code of Conduct forward. "We look at this important work as also a first step in developing a well-defined piece of space traffic management," he said.

Williamson said the code can shape a set of principles for respecting the rights of all spacefaring nations and users of satellites to operate in space. "It's what civilized people do. We operate by all sorts of codes of conduct here on Earth, particularly in ocean operations on the high seas, be they for military or civilian purposes."



Michael Krepon is Co-founder of the Henry L. Stimson Center and author or editor of 11 books and over 350 articles. He has worked at the Carnegie Endowment for International Peace, the US Arms Control and Disarmament Agency during the Carter administration, and in the US House of Representatives. He received an MA from the School of Advanced International Studies, Johns Hopkins University and a BA from Franklin & Marshall College. Krepon also teaches in the Politics Department at the University of Virginia. **Photo: Ploughshares Fund.**

Voices

"Rules of the road are required among major space-faring nations because satellites are both indispensable and vulnerable. If they are damaged in crises and in warfare, every space-faring nation will become less secure."

Michael Krepon, Stimson Center

"This model Code of Conduct should facilitate a small but crucial first step in preventing outer space from following the destiny of land, sea and air spaces in becoming the environment of wasteful arms races and fierce warfare."

Alexei Arbatov,

Carnegie Moscow Center

"We believe that this initiative paves the foundation for further efforts within the international community to deepen confidence and cooperation among the relevant stakeholders in space-faring nations."

Setsuko Aoki of Keio University and Katsuhisa Furukawa of the Japan Science and Technology Agency

Observed Joanne Irene Gabrynowicz, Director of the National Center for Remote Sensing, Air, and Space Law at the University of Mississippi School of Law: "The last quarter of the 20th century and the beginning of the 21st century has been filled with the emergence of new kinds of international legal instruments: declarations, Memorandum of Understanding (MOUs), charters, and a variety of self-declared 'non-binding' agreements."

Codes of conduct are among them, Gabrynowicz said. These new instruments are used for a variety of reasons, she explained: to achieve more flexibility than formal treaties; to document opinion; to establish practice or custom; to implement new ideas. "Some are more successful than others. Only time will tell as to how effective they are in the long-run and what kind of status they will achieve in international law," Gabrynowicz said.

Below is the text of the proposed Code of Conduct. For more information on the Code of Conduct and the work of Krepon and the Stimson Center, go to: <http://www.stimson.org/home.cfm>.

Rights of Space-Faring States

I

The right of access to space for exploration or other peaceful purposes.

II

The right of safe and interference-free space operations, including military support functions.

III

The right of self-defense as enumerated in the Charter of the United Nations.

IV

The right to be informed on matters pertaining to the objectives and purposes of this Code of Conduct.

V

The right of consultation on matters of concern and the proper implementation of this Code of Conduct.

Responsibilities of Space-Faring States

I

The responsibility to respect the rights of other space-faring states and legitimate stakeholders.

II

The responsibility to regulate stakeholders that operate within their territory or that use their space launch services in conformity with the objectives and purposes of this Code of Conduct.

III

Each state has the responsibility to regulate the behavior of its nationals in conformity with the objectives and purposes of this Code of Conduct, wherever those actions occur.

IV

The responsibility to develop and abide by rules of safe space operation and traffic management.

V

The responsibility to share information related to safe space operations and traffic management and to enhance cooperation on space situational awareness.

VI

The responsibility to mitigate and minimize space debris in accordance with the best practices established by the international community in such agreements as the Inter-Agency Debris Coordination Committee guidelines and guidelines of the Scientific and Technical Subcommittee of the United Nations Committee on the Peaceful Uses of Outer Space.

VII

The responsibility to refrain from harmful interference against space objects.

VIII

The responsibility to consult with other space-faring states regarding activities of concern in space and to enhance cooperation to advance the objectives and purposes of this Code of Conduct.

IX

The responsibility to establish consultative procedures to address and resolve questions relating to compliance with this Code of Conduct, and to agree upon such additional measures as may be necessary to improve the viability and effectiveness of this Code of Conduct.