

**Views of the Republic of the Philippines on the  
transparency and confidence-building measures in outer space activities in  
accordance with General Assembly Resolution 77/251**

The Philippines benefits from the exploration and preservation of the outer space for its peaceful uses. We therefore view that transparency and confidence-building measures (TCBMs) in outer space activities remain a salient priority for the Philippines.

As an emerging spacefaring nation, the Philippines is active in outer space discussions, including the Open-ended working group on Reducing Space Threats in Geneva and the United Nations Disarmament Commission (UNDC) which we see as frameworks that could provide predictability, and lower the tensions among major spacefaring nations in outer space and preserve the peaceful environment of outer space.

The Philippines therefore provides the following inputs that could promote practical implementation of TCBMs contained in the report of the Group of Governmental Experts on Transparency and Confidence-building Measures in Outer Space Activities in 2013:

1. Principles of responsible behaviour support the efforts in the context of preventing an arms race in outer space (PAROS). The aim of defining principles for responsible behaviour in space is to enhance the security of space activities, to prevent misunderstandings, misperceptions, and miscalculations and to reduce the risk of unintended escalation. Intended as initial steps, they reflect the expectations of the international community to pragmatically find ways to increase space security.
2. Safety and security are equally important for preserving outer space as a peaceful, safe, stable, secure, and sustainable environment for the benefit of humankind. Whereas best practices of safety such as the adherence to the Guidelines for the Long-Term Sustainability of Outer Space Activities (LTS Guidelines) are a baseline requirement for the use of and free access to space, in times of geopolitical tensions principles of responsible state behaviours must go beyond and also address the security aspects. Defining these principles is crucial for establishing a common understanding against which to contrast state activities and how to respond to actions considered to be irresponsible.
3. These principles of responsible behaviours are distinct from and without prejudice to binding norms of international law. In this context, the concept of due regard enshrined in Article IX of the legally binding 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies (Outer Space Treaty) is most relevant. The duty of due regard does not constitute a blanket limit on state conduct, but it also does not permit states to merely note other states' rights and still do as they wish.
4. Its application rather depends upon the nature of the rights and obligations involved, their importance, the extent of the anticipated impairment, the nature and importance of the activities contemplated, and the availability of alternative approaches. In this regard, the rules of responsible behaviours may inform state-

practice on the application of existing space law.

5. As an initial step, it is essential to identify and discuss basic principles that can constitute the backbone of responsible behaviours in outer space. They are useful for determining the scope of later norms and paving the way for their acceptance in principle. These considerations apply in times of peace only, since international humanitarian law (IHL) applies in times of armed conflict.
  - a. **Not conducting destructive direct-ascent ASAT testing:** States should commit not to conduct destructive, direct-ascent anti-satellite missile testing. Experience has shown that such tests result in the creation of a large amount of space debris that put at risks the crewed and uncrewed space systems of other states. The adoption of United Nations General Assembly Resolution A/C.1/77/L.62 has shown large support for a universal commitment not to conduct destructive direct-ascent anti-satellite missile tests.
  - b. **No testing and usage of kinetic counter-space capabilities:** States should not test or use or threaten to use co-orbital kinetic counter-space capabilities against satellites and other space systems. This includes but is not limited to satellites deliberately colliding with another satellite or physically forcing another satellite to disrupt its normal operation or to manoeuvre into safety-inflicting damage with robotic arms to other satellites, ejecting projectiles or similar objects targeting other satellites within its range.
  - c. **Conducting rendezvous (docking) operations requires consent:** States should not conduct or knowingly support rendezvous (docking) operations with space systems of another State unless the affected State has given prior consent. States should submit a request for consent to the affected State in advance of such an operation. Notifications should include at least the planned timing, trajectory and objective of the operation.
  - d. **Considerations regarding conducting proximity operations:** States should not conduct or knowingly support proximity operations which impair the safe operation of space systems of another State. States should aim for the greatest possible transparency and avoid ambiguity in their operations that could be misperceived or misinterpreted by the other State as a threat.
  - e. **No interference with other space systems:** States should not conduct or knowingly support activities (e.g. through cyber, electromagnetic or laser interference) that lead to a loss of operational control over or irreversible damage or permanent loss of space systems of another State.
  - f. **No interference with space-based critical services:** States should not conduct or knowingly support activities (e.g. through cyber, electromagnetic or laser interference) that impair the provision of space-based services critical to the public and severely affect or even harm civilians. In particular, they should not disrupt or impair the provision of PNT signals from space. States should not impair the provision of space-based services for strategic stability and early warning.
  - g. **Considerations regarding launching of missiles and space launch vehicles:** States should conduct launches of missiles and space launch

vehicles in a way that ensures to the greatest extent possible and feasible maximum the safe and secure operation of satellites and crewed space stations and other space systems. When launching space launch vehicles, the launching State should issue pre-launch notifications and conduct prior coordination with potentially affected countries including those identified as potential drop zones of re-entering debris (e.g., rocket stages) from the launch that pose a potential risk of injury to people, damage, or destruction to property. They are further strongly encouraged to adhere to the Hague Code of Conduct Against Ballistic Missile Proliferation (HCoC), which encourages transparency in the conduct of missile launches.

6. States should always adhere to the highest standards of good governance in the obligation to preserve a peaceful use of space. Such standards should include measures of transparency, responsibility and accountability. The principles of responsible behaviours identified earlier need to be operationalized by existing and future measures for trust and confidence building.
7. For this, the potential of the existing conventions and regimes, above all the Outer Space Treaty, the UN Register on Objects Launched into Outer Space, the Hague Code of Conduct Against Ballistic Missile Proliferation (HCoC) and the Missile Technology Control Regime (MTCR), should be used and further strengthened. Keeping in mind the transparency and confidence-building measures (TCBMs) contained in the Report of the Group of Governmental Experts (GGE) on Transparency and Confidence Building Measures in Outer Space Activities (UNGA A/68/189), further measures might include:
  - a. **Transparency and information-sharing:** Without prejudice to their core national security interests, States should seek to make national space security policies, strategies, and doctrine publicly available. States should share open-access space situational awareness data and catalogues to the greatest extent possible, as their data provide the basis for observing space activities of other States and for identifying patterns that may not be consistent with principles of responsible behaviour.
  - b. **Common mechanism for de-confliction:** States should establish a common mechanism of de-confliction with national contact-points which allows to quickly contact and coordinate with another State and to clarify and resolve issues of security and safety. This de-confliction measure will reduce the risk of misperceptions and miscalculations among States.
  - c. **Network for communication and notification between States:** States should establish permanent communication channels with other States regarding the conduct of their outer space activities that could have implications on the interests of other States. They should issue notifications that are timely and contain sufficient information about their relevant space-related activities through these channels.
  - d. **Collecting, establishing, and making use of best practices for transparency:** Best practices from current space operations, including those from previous United Nations and other international fora and private-sector space actors, as well as from other domains with certain similarities such as cyber or maritime security, should be collected and discussed with a

focus on its implications on space security.

- e. **Involvement of national private-sector space actors:** Private-sector space actors become increasingly important in exploring and using outer space. States should thus adopt and implement appropriate measures, including by establishing a regulatory and supervisory framework, to ensure that their national private-sector space actors follow internationally agreed principles of responsible behaviour. Enforcement measures are to be implemented.

The Philippines emphasizes that all nations have right to peaceful uses of outer space, but this right must be exercised with “due regard” to the rights and interests of others, and to the preservation of outer space for future generations.

This duty is enshrined in the five main treaties on outer space, particularly the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies (OST), and in its precursor which is the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space. It has also been noted in discussions by the GGE established by United Nations General Assembly Resolution 72/50 as an important principle in the context of exploring possible substantive elements of a legally-binding instrument on preventing an arms race in outer space.

Having “due regard” to the interest of others in the conduct of activities in outer space is beyond being a voluntary norm of state behavior. It is a legal obligation of all spacefaring nations. Elaborating the concept of due regard and its application in outer space would enrich considerations on responsible behavior in space.

The enshrinement of the duty of “due regard” in the 1967 OST implies a departure from a “laissez-faire treatment” of outer space towards a regime characterized by the accommodation of competing rights and interests. In the context of outer space, this balancing of rights and interests should involve two dimensions: first, between and among spacefaring nations; and, second, between a spacefaring nation and the wider international community.

Like the high seas, outer space is not subject to sovereign appropriation and its resources form part of the “common heritage of mankind.” Given these similarities, consistency of international law demands that the interpretation of the duty of “due regard” in the context of international space law does not dramatically depart from its existing application under the law of the sea.

Interpretations of the application of the duty of “due regard” arising from law of the sea jurisprudence could offer practical guidance in the context of clarifying the application of the same duty in outer space. The following ideas are instructive:

- a. While the duty of “due regard” does not constitute a blanket limit on state conduct, it also does not permit states to merely note other states’ rights and still do as they

wish. Instead, its application depends upon the nature of the rights and duties involved, their importance, the extent of the anticipated impairment, the nature and importance of the activities contemplated, and the availability of alternative approaches.

- b. In most cases, the duty of “due regard” would necessarily involve consultations on the basis of good faith, and require that the avenues for such consultations are exhausted. Such consultations, which is already provided for under Article IX of the 1967 OST, should encompass a conscious balancing of rights and interests, including extensive concern regarding the other party’s reaction; suggestions of compromise and willingness to offer assurances; and an understanding of other parties’ concerns in connection with any proposed activities.
- c. The duty of “due regard” imposes “due diligence obligation” upon states over the conduct of their nationals and vessels, with the view to ensuring that their conduct do not prejudice the rights and interest of other states.