Kingdom of the Netherlands

Statement of the Kingdom of the Netherlands

at the

Second Session

of the

Open-ended working group on reducing space threats

through norms, rules and principles of responsible behaviours

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(written version)

Chair,

I would like to commend you and your team for your diligent work done in the scope of the Open-Ended Working Group (OEWG) on reducing space threats through norms, rules and principles of responsible behaviours, and by providing us with such an insightful and substantive programme for the OEWG sessions. You can count on the full support of our delegation to make this OEWG a success.

Current and future Earth-to-space threats by States to space systems

This morning and the days before, we have heard of several Earth-to-space threats with a multitude of origins. These threats can not only impact space fairing nations across the globe, but an even larger number of users of space services as well. This may endanger numerous – very often critical – economic, social, scientific, and security-related applications.

We should therefore not limit ourselves to identify and address a single root cause of threats, nor work on a one-size-fits-all solution. Instead, contributions from various stakeholders in this process which we have heard so far show that a step-by-step approach is possible that addresses the different threats in directed ways.

Earth-to-space threats such as direct-ascent anti-satellite (DA-ASAT) weapons continue to be a matter of great concern to the Netherlands. Some current proposals for legally binding measures do not sufficiently address these threats. This is among the underlying reasons that the Netherlands cannot support these initiatives at this moment.

It is a positive development that ground-based threats have been included in the United Nations General Assembly resolution on *Further Practical Measures for the Prevention of an Arms Race in Outer Space*. In this regard, the Netherlands welcomes the commitment by the United States not to conduct DA-ASAT missile tests and welcomes similar commitments by other United Nations Member States expressed thereafter. To us, this initiative is an example of a useful measure to prevent an arms race in outer space by promoting responsible behaviour.

These unilateral commitments, and the potential for multilateralization via the draft resolution on DA-ASAT tests that the delegation of the United States announced yesterday, are a timely and constructive step forward to reduce the threat of force against outer space objects. Further steps should aim to enshrine this commitment into a (broader) legally binding instrument, especially in light of real-life developments such as the deliberate and unnecessary generation of space debris. The latest example of such an act is the destruction of the *Cosmos-1408* satellite by a DA-ASAT missile in November 2021. The subsequent and long-lived consequences of such irresponsible acts harm the space environment and endanger the activities of other space users, including the lives of all human space farers.

Current and future space-to-space threats by States to space systems

Before we will go into more detail on the topic of space-to-space threats, we would like to state that we fully support the comments that have been made by our Canadian colleagues. First, we believe that the emphasis should be on behaviour rather than capabilities, also because we do not want to curb the legitimate use of space assets for civil, social, economic, and developmental purposes. Second, it is obvious to the Netherlands that international humanitarian law applies in outer space as it does on Earth. Third, we share the view expressed by the German delegation that military use of space is not prohibited and can be distinguished from the weaponization of space, which we resolutely oppose.

Returning to space-to-space threats, our delegation joins other delegations in expressing our concern with regard to developments in the field of co-orbital ASATs and the security implications of rendezvous and proximity operations. Using satellites to approach or make physical contact with other operational satellites by means of rendezvous and proximity operations without the permission of the owner of the satellite that is the target of that operation can in certain cases be considered irresponsible behaviour. This is not a hypothetical issue, as the Netherlands has come to know in the recent past.

Other irresponsible actions include intentionally hindering a space object in orbit and/or forcing it to perform an evasive manoeuvre. Such orbital manoeuvres cost precious fuel and hence reduce the lifetime of a satellite. The same holds for rendering satellite orbits unusable by intentionally dispersing space debris in those orbits.

We have heard from panellists that developments in these fields continue at speed and require our urgent attention. The Netherlands does not advocate duplicating existing efforts by the international community to guarantee the safe, secure, and sustainable use of outer space. Likewise, we believe that it would be unwise to allow the important and practical work that needs to be done by the international community to be delayed by mere procedural discussions.

Transparency about space operations such as launches and orbital manoeuvres is key. This can already be achieved in part through various existing mechanisms, including the timely provision of information to the United Nations Register of Objects Launched into Outer Space. Also worthy of particular attention in this context is the Hague Code of Conduct against Ballistic Missile Proliferation (HCoC). Through this standing forum, of which this year marks its 20th anniversary, States inform each other not only about launches of spacecraft but also on space policies that may concern relevant activities. For all the purposes of the Code, its universal adoption will provide a concrete and substantive contribution to space security.

We can also make good use of the work being done in other international fora that deal with space issues, for example regarding space traffic management, and by the work done by commercial actors.

Such further practical ways forward will undoubtedly be discussed in more detail during the next session of this OEWG.

Current and future Earth-to-Earth threats by States to space systems

Finally, let us reiterate that, in this OEWG, we are identifying space threats and ways to reduce those threats by encouraging responsible behaviour. We are not here to regulate armed conflict in space, for it has already been regulated.

The laws of armed conflict, both the *jus ad bellum* and the *jus in bello*, are applicable in outer space as they are on Earth. It is not our task to repeat that exercise, and there is no need to repeat it either. Our delegation joins the Canadian delegation in stressing that in accordance with the international law of outer space, we must acknowledge that the entire body of international law applies in outer space. Article III of the Outer Space Treaty[1] clearly says so.

Furthermore, historical experience shows that while these rules may not prevent all acts of non-compliance, they do ensure subsequent accountability. As was mentioned by others as well, we believe that establishing norms of responsible behaviour is complementary to the rules laid out in existing law, rather than being a matter of competition.

Our delegation stresses that the belief that universal recognition of the applicability of international humanitarian law to outer space would subsequently lead to armed conflict in space is misleading. The regulation of conceivable threats does not incentivise these threats to occur, nor does a lack of regulation prevent them to occur in any way. Clearly, the exact opposite is true.

I thank you Chair.

[1] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.