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The Place of TCBMs in the Outer Space Security

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Introduction.

The basic purpose of this presentation is to research the concept of transparency and confidence-building measures (TCBMs) in Outer Space and to define their place in maintenance of Outer Space security.

It will demand consideration of the following questions:

-History of the concept of TCBMs in the international space law,

-Definition of legal bases of their application in space activity from the point of view of international law,

-Explanation of the reasons of their application in modern conditions,

-Content of the concept of TCBMs,

-Analysis of TCBMs from the point of view of modern tendencies in the maintenance of space security.

1. Evolution of the concept of TCBMs in the international space law.

Originally in the consideration of questions of military - space activity States did not give attention the necessity of application of such measures.

Change of position in 1978: Final document of X Special session of UN GA calls for prevention of race of arms in a space acceptance of the further measures and realization of the appropriate international negotiations.

Since 1981 UN GA annually accepts resolutions "On Prevention of an arms race in Outer Space" about necessity of prevention of an arms race in Outer Space and acceptance of the further measures that not allow to turn Outer Space in an area of military confrontation.

Since 1990 UN GA accepts resolutions on transparency and confidence-building measures in Outer Space activities. It is emphasized that more wider use of Outer Space strengthens necessity for the greater transparency and also in confidence-building measures and their applicability to Outer Space environment.

Contemporary international legal initiatives in the sphere of maintenance of space security (Draft Russian-Chinese Treaty and the Draft European Code of Conduct for Space Debris Mitigation) also provide acceptance of appropriate TCBMs.

2. An international legal basis of application TCBMs in Outer Space.

The international space law (ISL) recognizes necessity of cooperation between States in questions of prohibition of Outer Space militarization and arms race in it. It establishes States obligations on maintenance of such cooperation.

1967 Outer Space Treaty establishes partial demilitarization of Outer Space and full demilitarization of the Moon and other celestial bodies (Art. IY).

1975 Registration Convention provides granting information relating launching space object from the State of registration.

Thus, the international agreements regulating space activity formulate general obligation of States on granting the information on their space activity.

Some measures transparency and confidence-building in space activity are carried out by the States unilaterally and are not legal, but rather political obligations.

Provisions of UN GA resolutions confirm TCBMs as the means promoting maintenance of achievement of the purpose of prevention of arms race in Outer Space and recognize their applicability.

The task of the further development of the international cooperation on prevention of arms race in Outer Space requires serious specifications and a formulation of more precise legal obligations of the States on application of TCBMs in their space activity.

3. Necessity of acceptance TCBMs in contemporary conditions.

Principal causes of development and acceptance of TCBMs are determined by interrelation of such factors, as growth of concern concerning appearing of new tendencies in space activity with necessity of prevention of arms race in Outer Space. Thus such concern was marked both on global, and on regional levels (1993 UN Secretary General Report).

Expansion of a complex of space actions and expansion of number of States using Outer Space will cause progressive development of the international space law in this sphere of space activity.

Last initiatives in the sphere of space security and safety show necessity of development and acceptance of TCBMs.

4. Concept of TCBMs in modern international law.

TCBMs concept has developed and is widely used in the sphere of disarmament and the international security.

The sense of the expression of "confidence-building measure» is identical with common value of a word "confidence", i.e. confidence in whose or conscientiousness, sincerity, correctness of something.

For the first time the term of "confidence-building measure» was used in CSCE Final Act of 1975. In it measures of the notice on military activity and supervision over it, aimed on assistance to reduction of danger of a confrontation, wrong understanding or a wrong estimation of military activity were provided.

CSCE experience was perceived by United Nations and its system, and also by a number of other international organizations, including regional ones.

With reference to space activity the term of "confidence-building measure» is used in UN GA resolutions since 1990.

In the Report of the UN Secretary General it is established that confidence-building measure is not simply an establishment of the list of those or other measures, it is dynamical process of accumulation of experience of positive interactions. It goes from the general obligations to more concrete obligations, allowing to increase security of the States.

Means of confidence-building measure in

space activity are:

Improvement of quality and quantities of the exchanged information on military activity and potential in Outer Space;

Expansion of sphere of action of confidence-building measures;

Strengthening of adherence to this process from voluntary unilateral measures to bilateral and to multilateral measures, down to their acceptance in the form of firm legal obligations.

Necessary condition of State participation in TCBMs is observance of principles of international law (sovereign equality, not to cause damage to security and its equation).

There are three categories of TCBMs:

Encouraged activity - promotes use of Outer Space in the peace purposes for the welfare of all mankind;

The allowed activity - is not forbidden by international law, but also specially is not encouraged by it;

The forbidden activity - is under an interdiction according to norms of the international space law.

5. TCBM and a security in Outer Space.

As well as in the general international law, TCBMs are a component of an international legal regime of general international security.

There is a close connection between a question of prevention of arms race in Outer Space and TCBMs though these measures can

play an independent role in maintenance of space security and also remain a component of the control mechanism of international agreements forbidding position of the weapons in Outer Space.

Development of Draft Treaty forbidding militarization of Outer Space, should go in parallel development of TCBMs. TCBMs with all its importance and value for Space security, can not replace comprehensive legal obligations on prevention of arms race in Outer Space.

The Draft Russian-Chinese Treaty on the Prevention of the Placement of weapon in outer space, the Threat or Use of Force against Outer Space Objects (TPPW) provides for establishing a prohibition on placement in Outer Space of the weapon of any kind, also it contains a universal prohibition on any force actions concerning space vehicles.

Draft Treaty is spoken about necessity of assistance of confidence for observance of its provisions and its maintenance of transparency and also confidence-building in Space area. It provides realization of the coordinated confidence-building measures on a voluntary basis if not will be arrangements on other (art. YI). Differently, the Draft offers "soft" variant of establishment of TCBMs: either voluntary basis, or development of the special mechanism, which details are not specified.

The Draft European Code of Conduct for

Space Debris Mitigation puts a task of minimization of Space collisions, acceptance of measures of the control and mitigation of consequences of Space debris. Though the Draft Code does not concern to questions of demilitarization of Outer Space, its task - strengthening of Space security in a broad sense of this word.

The Draft Code in due time obliges States Parties to direct the information to maximum greater degree and to practically possible measure, all potentially mentioned signed States about carried out Space activity which concerns the purposes of this Code, in particular, about the planned maneuvers which can result in dangerous affinity of Space objects, about change of orbits, entry in dense layers of an atmosphere and other relevant information.

Besides the duty of granting of the information on a national policy and strategy of signed States, including their basic purposes in sphere of a security and defense and is provided by other activity connected to it.

Thus, it is possible to conclude, that the Draft Code also provides the wide list of measures on transparency and confidence-building in Space activity, but as against the Draft TPPW it contains the concrete list of the information, which participants of the Code should give on a mutual basis.

Conclusions

In the modern ISL there is a general duty of the States to cooperate in questions of maintenance of space security, including prevention of militarization of Outer Space.

TCBMs are one of means of maintenance of space security and creation of necessary conditions for peace use and research of Outer Space.

One of concrete international legal obligations of the States is granting the information on the Space activity, that it is obviously not enough for creation of system of the international space security.

It causes necessity of development of TCBMs concept and international legal mechanisms of its realization.