EXPLANATORY NOTE
on the updated draft Treaty on the Prevention
of the Placement of Weapons in Outer Space,
the Threat or Use of Force against Outer Space Objects

Launched in 2002, the Russian-Chinese initiative on elaboration of an international legal agreement on the prevention of the deployment of weapons in outer space, the threat or use of force against outer space objects has become a subject of active discussions at the Conference on Disarmament (CD). In the recent years a considerable body of knowledge has been accumulated, which allows us to improve and clarify the draft Treaty on the Prevention of the Placement of Weapons in Outer Space, the Threat or Use of Force against Outer Space Objects (PPWT) submitted in 2008.

Russia and China believe that it is high time to come up with an updated draft PPWT, which takes into account comments and proposals received from the interested states and reflects the evolving situation in outer space.

The aim of the new draft is to bring states’ positions closer and remove ambiguities identified in the initial version.

The main amendments are as follows:

Preamble
The Preamble has been additionally amended with provisions regarding the importance of the strict compliance with the existing agreements in the area of space activities and a reference to the Outer Space Treaty of 1967.

Article I (definition of terms)
The disputable definition of the term “outer space” (“the space above the Earth in excess of 100 km above sea level”) has been removed from the text. This issue could be addressed, if necessary, in the future. The definitions of the terms “outer space object”, “weapon in outer space”, “use of force” and “threat of force” are clarified.
Article II (obligations under the Treaty)

Article II has been amended with the provision to “not engage in outer space activities, as part of international cooperation, inconsistent with the subject matter and the purpose of this Treaty.” Organizations and persons subject to the commitment to “not assist or incite … to participate in activities inconsistent with the subject matter and the purpose of this Treaty” are clearly defined.

Moreover, Article III has been deleted from the 2008 draft, as its provisions are covered by the revised Article II.

Article IV (the right of self-defense)

Editorial amendments are based on Article 51 of the UN Charter that recognizes a possibility to use the right not only of individual but also collective self-defense if “an armed attack occurs against a Member of the United Nations”.

Article V (compliance with the provisions of the Treaty)

The need to elaborate compliance control measures has been recognized.

Article VI (Executive Organization of the Treaty)

A clear mandate for the Executive Organization to facilitate implementation of the Treaty has been proposed, which does not contradict other articles of the Treaty.

Article VII (dispute resolution)

The article has been formulated considering the key elements of the dispute resolution mechanism provided by other international legally binding instruments including a possibility to appeal to the Executive Organization of the Treaty to settle the dispute or eliminate the PPWT violation, which may in its turn, if found impossible to do so, appeal to the UN General Assembly or to the Security Council.
Article VIII (participation of international intergovernmental organizations in the Treaty)

The Article has been amended to include the conditions of international intergovernmental organizations participation in the Treaty.

Article X (entry into force of the Treaty)

The Article includes a provision on the activities of the UN Secretary-General as the Depositary of the Treaty on informing the States about the process of signing the Treaty, its date of entry into force, arising disputes and other notifications.

Article XI (amendments to the Treaty)

The principle of consensus has been introduced, so that it provides that amendments to the Treaty enter into force upon their adoption by States Parties' consensus.

Article XII (withdrawal from the Treaty)

The Article has been amended to include a reference to the extraordinary events that have jeopardized a notifying State Party's supreme interests in case of its withdrawal from the Treaty.

We would like to stress that the new draft is open for further constructive comments and proposals from all states.

We consider a legally binding ban on placement of weapons in outer space as one of the most important instruments of strengthening global stability and equal and indivisible security for all. We call upon all states to consider an earliest start of comprehensive negotiations on the updated draft PPWT.