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New Approaches to Arms Control

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Opening Remarks

There is a sparse record of accomplishment in arms control related to space. One, the Outer Space Treaty constrained the development of Weapons of Mass Destruction (WMD) activities in space. Two, the Anti-Ballistic Missile (ABM) Treaty prohibited space-based ballistic missile defense (BMD). Three, arms control treaties reaffirmed the ABM Treaty's valuable norm-setting provisions protective of satellites for intelligence ends. And four, there was one serious effort to negotiate constraints on military space capabilities concerning ASAT weapons between the U.S. and Soviet Union in the mid-1970s.

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There are a number of reasons for the sparse record of accomplishment in arms control related to space. The U.S. has preferred non-treaty approaches to arms control related to space and there are other negotiating priorities, usually nuclear related. Also, there exist long periods of disinterest and the United Nations Conference on Disarmament is blocked by consensus rule. Furthermore, conditions do not now appear to be in place for ambitious undertakings in space diplomacy for arms control because of: the considerable mistrust between key spacefaring states; the underlying conditions are not ready either for the development of arms control or for any potential agreements to transform relations between Russia, China, and the U.S.; the Obama Administration has higher priority negotiating objectives on nuclear related matters; verification and scope are at odds with one another – the more ambitious the negotiating agenda, the harder it will be to verify; and over-reaching is a possible factor, such as insisting on a treaty over informal approaches.

During opening remarks, several criteria for space diplomacy initiatives for the Obama Administration, which will help to shift relations between major space powers – and their behavior in space – for the better were indentified. These criteria are listed below.

- Agreements must advance U.S. national security.
- Agreements that work best set norms that advance responsible behavior in space. In doing so, norms help isolate irresponsible behavior in space and, if necessary, facilitate responses of our choosing to dangerous and irresponsible behavior. A code of conduct to extend the no harmful interference provision found in many earlier agreements to all satellites that serve peaceful and military support functions, and a KE-ASAT ban treaty are efforts worth pursuing to better ensure responsible behavior in space.[1]
- Agreements that have the best chance of success will focus on immediate problems that have the potential of growing far

[1]Some panelists thought that soft law, such as a code of conduct or rules of the road can capture the KE-ASAT issue, and thus the need for a formal treaty to ban ASATs may not be needed. All panelists agreed that to regulate behavior in space, capabilities must also be regulated and these regulations must be result-oriented aimed at building customary practices.

worse. The orbital debris problem and the space traffic management problem qualify.
- Agreements must be reached in a timely manner, and focus on space, not ballistic missile defense.

Discussion

During the discussion period, a number of issues were identified and discussed. The first issue concerned deterrence failure, and the right mix of strategies and policies to prevent failure. One reason for failure is that someone else might attack first if they think the benefits outweigh the costs. A second reason is inadvertent due to issues of insecurity and the security dilemma, and the dynamics of arms races. And a third reason, lies with an adherence to the view, among U.S. military leaders, of a contested space environment, which can become a "self fulfilling" prophecy.

Prevention of deterrence failure must be thought of in the context of several factors: there is no rivalry today akin to Cold War; cooperation is more an international norm today than before; and there are more pressing problems than space arms control, such as nuclear, missile, and high-technology proliferation. These factors suggest that there is a need for a strategy of reassurance, not dominance or control, with residual space deterrence to ensure responsible space behavior based on freedom of action and no harmful interference in the space dolman. In this way, the U.S. can reiterate norms and rules about space and make clear that it will discuss other possibilities, such as a ban on weapons in space.

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The second key issue discussed concerned the critical role of law with regard to arms control. Law establishes the context for a stable and predictable environment. Even more so, law backed-up by political commitments can get you what you want. International law is ambiguous, but ambiguity can be strategic as law is based in getting agreement on valid interpretations of principles and interests.

The Outer Space Treaty (OST) is essential as it sets the agenda for norms to be abided by in space. It is based on ideas of reciprocity for freedom of action in space for all, and negative obligations to avoid harmful interference. Over the years, the OST has proven to be valid and enduring, although it does need clarification. The one weakness of the OST regime is that it is not optimally suited to respond to changing political and technical conditions. Examples of some of these changes identified in this session include: dual use technologies; rate of change in space technology; balance of capabilities (space is asymmetric); growth in the number of actors that complicates multilateral efforts and engagement; blurred intersections between military, commercial, and civil uses of space, and thus, the need for greater clarity between what is considered peaceful military use of space and what is not, e.g., what constitutes a space weapon; and different geopolitics than the Cold War. These factors make any new agreement directed at space related arms control – as well as revisions, updates, or amendments to OST – a very challenging prospect.