

Statement by Ambassador Luiz Filipe de Macedo Soares  
Permanent Representative of Brazil  
to the Conference on Disarmament

Geneva, February 8th, 2011

Item 3 of the Agenda  
Prevention of an Arms Race in Outer Space

Mister President,

PAROS has been on our Agenda since 1981, when the Committee on Disarmament, received the mandate from the General Assembly, through Resolution 36/99, to conclude (I quote) “an appropriate international treaty to prevent the spread of the arms race to outer space” ... and “...embark on negotiations with a view to achieving agreement on the text of such a treaty” (end of quotation).

Just a few years earlier, in 1978, States had come to the conclusion that outer space was not alien to international security and that the matter should be addressed by the United Nations. It was for reason that the issue was included in the Final Document of SSOD I (Special Session of the General Assembly on Disarmament), where, in its Paragraph 80, it is explicitly stated that: (and I quote) “In order to prevent an arms race in outer space, further measures should be taken and appropriate international negotiations held in accordance with the spirit of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies” (end of quotation).

To be brief on the historical background, let me just recall that PAROS had many opportunities to progress, the closest call being when the CD established an “Ad-Hoc” Committee to address the matter between 1985 and 1994, in order to examine “all existing agreements, existing proposals and future initiatives”. It was a decision contained in document CD 584. But in 1994, unfortunately, its final report was inconclusive and member States could not arrive at a consensus to reconvene the Committee. Since then, the matter has been limited to proposals circulated by some delegations, but no formal discussions have taken place.

Within the framework of the UN, since 1981, there have been more than 30 resolutions adopted by the General Assembly on outer space, mainly on a PAROS treaty and on transparency, which have counted with almost unanimous support.

This year, on the occasion of the 30<sup>th</sup> anniversary of Resolution 36/99, the CD is nowhere near the fulfillment neither of that first mandate from the General Assembly nor of a mandate of its own.

It is relevant to take this opportunity to remind ourselves that the reasons put forward, thirty years ago, by the international community to negotiate a treaty have not lost their validity. On the contrary, there are more concerns today on security in outer space and therefore more arguments in favor of such a treaty.

In these three decades, the world has become more and more dependent on satellite services. The global community has also become aware that all space activities are vital, but also vulnerable to accidents and failures, as events in recent years have shown. In this new, overpopulated, space environment, with more than 3.000 satellites in operation, the number of inactive devices and the innumerable pieces of space debris pose increasing dangers.

The launching of weapons in orbit could be the extra element to make satellite network even more vulnerable and more prone to collapse, by accident or otherwise. It is in this light that a PAROS treaty could be a solution to rule out the threat of a collapse. Needless to say that such a collapse would affect all countries, without distinction, those that have and those that do not have technological capacity to launch weapons in orbit. Compared to the “nuclear winter” imagined by Carl Sagan, we could face a “global black-out”.

Mister President,

Among the many aspects involved in the issue, there are two basic perspectives that divide those who have interest in the matter. The first one is the point of view of those States that have neither motives nor technological means to place weapons in orbit. In general, these countries tend to believe, as, I believe, is the case of public opinion at large, that outer space should be used exclusively for traffic of satellites that provide communications, forecasting, information and other services.

The second perspective is that of States that are capable of developing and deploying different sorts of weapons: aggressive or defensive, either placed in orbit or land-based designed to attack space objectives. For these countries, outer space is an environment with potential warfare use. It is precisely this belligerent use of space that a vast majority of States wishes to exclude by means of a PAROS treaty, ensuring that outer space does not become a battlefield.

There is a widespread recognition that the absence of a legal instrument to deal with the potential problem of weapons in space is a vacuum that creates global insecurity and undermines confidence among major space-faring countries.

Brazil, a developing country engaged in a space program totally directed to peaceful purposes, expects to have unrestricted access to a weapons-free outer space and believes that it is in the best interest of the international community to start negotiations on a legally binding instrument to prevent the placing of any kind of weapon in outer space.

The unfortunate reality is that consensus to move negotiations forward on PAROS in the CD remains elusive, although my Delegation still places hope on the adoption of a program of work proposed by the Presidency which would open the way to negotiations.

This frustrating stalemate has stimulated delegations to look for alternatives and propose different options. In this regard, ideas have been ventilated, some in form of concrete proposals.

One of these is to pursue, as a first approach, transparency and confidence building measures (TCBMs), which is a modality aimed at lowering tensions, but not at preventing an arms race in outer space. Brazil does not refuse intermediate measures and we have been supporting a number of initiatives in the UN General Assembly, but efforts in the CD should be focused on a legally binding instrument.

Another idea that has been ventilated is the initiative by the European Union of elaborating a document titled Code of Conduct for Outer Space Activities. I understand this document to be a set of guidelines, encouraging the peaceful use of outer space and directed towards many aspects of satellite operations. However, it must be considered if it will sufficiently cover the complexities of international security in space, including the banning of weaponization, which requires a legally binding instrument.

It should also be pointed out that codes of conduct, as a modality of regulating international activities, are a novelty, the incorporation of which to the set of institutions of International Public Law is, to say the least, object of controversy. By not being legally binding, codes of conduct would have compliance to them based solely on the good will of States. However, we have seen frequently in this kind of documents prescriptions and prohibitions that are expected to be observed, otherwise the signatory is considered as not complying. In that case codes of conduct are supposed to generate obligations.

International Law Process establishes that a State can only assume legal obligations through a constitutional process usually involving the advice and consent of the Legislative Power among other requirements. Codes of conduct are not expected to fulfill those requirements hence they cannot be considered instruments of International Law. They are nothing more than political documents, that may establish political and even moral bounds but not legal.

The draft “Treaty on Prevention of the Placement of Weapons in Outer Space and of the Threat or Use of Force against Outer Space Objects”, circulated by the Russian Federation and China as document CD 1839, in 2008, is a contribution to start discussions on a legally binding instrument to regulate the matter. Though it is a constructive and concrete contribution, in its present wording it is still a schematic framework, with some elements that could be useful in a treaty. Further substance and a more precise language are needed. One positive aspect of this initiative is that this document was the object of a fruitful interaction among Member States of the CD, which indicates that, by now, PAROS could benefit from the establishment of a subsidiary body in the CD to allow direct discussions in order to make progress in this item. My Delegation would support any initiative you would take in that direction.

Brazil expects that the Conference on Disarmament adopt its Program of Work as soon as possible, with the inclusion of a Working Group on PAROS in accordance with either of the mandates contained in CD 1864 or in CD 1889.

The CD received last year Mr Frank Rose, Deputy Assistant Secretary for Arms Control, Verification and Compliance, who presented the new US Space Policy. At that occasion, Mr. Rose made an encouraging statement in which I understood that the United States of America could support a mandate on PAROS along the lines of document CD 1889 in which the mandate proposed reads (I quote) “to discuss substantively, without limitation, not excluding the possibility of multilateral negotiations in the Conference on Disarmament, on all issues related to the prevention of an arms race in outer space” (end of quotation).

I thank you.