

## **Australian Statement - Exchange of views on the outcome of the first session and outlook towards the second session**

**13 May 2022**

Thank you Chair.

At the outset, Australia wishes to congratulate you for the way you have conducted these discussions. We appreciate the expert presentations from our panellists this week and request that you pass on our gratitude. Finally, we would also like to thank all delegations for their active and constructive engagement this week.

This week illustrated that the space governance framework comprises of both binding and non-binding instruments. Legal regimes of other domains, including aviation and sea law, can also usefully inform the development of appropriate norms, rules, and principles of responsible behaviours in outer space.

Australia fully supports discussions and clarification of how international law applies in outer space.

We do not accept the proposition that such discussions legitimise warfare in space. On the contrary – we think that building a shared understanding of how existing international law, including IHL, applies to outer space contributes to a more predictable and stable world order. It can also contribute to further strengthening and development of our legal and normative framework by clarifying what already applies.

In relation to IHL, Australia considers it likely that certain customary international law obligations related to the protection of civilians and civilian objects, which do not have any territorial limitations, apply to conflict conducted in outer space.

These rules include the principle of distinction, proportionality, necessity, requirement of precautionary measures, prohibition of indiscriminate attacks, and prohibition of using means and methods of warfare that cause superfluous injury.

Chair

We listened carefully to the delegations that called for a legally binding instrument as a core outcome of this OEWG.

As we have heard this week, legally binding rules and non-binding norms are not mutually exclusive and can be complementary. The development of non-binding norms and responsible behaviours can play a critical role in enhancing space safety, sustainability and security.

As we heard from Dr Martinez earlier today, non-binding norms can lead to the development of legally binding instruments.

The development of new law is necessarily an iterative process. We should focus on substance over form: States need to first have a shared understanding about precisely what needs to be regulated before calling for a new legally binding instrument.

Finally, in addition to the important work of the OEWG, I wish to note that Australia will be engaging on the latest draft of the Woomera Manual – an international research project that seeks to

articulate and clarify how international law applies to outer space. This is an important process, and we encourage all States to engage.

Australia supports a behaviours-based approach in the work of this OEWG, to help reduce the risk of threats and miscalculations. These discussions are an important part of PAROS considerations.

Next session we will explore the threats to space systems. The distinguished delegates from Pakistan and the Russian Federation have today framed a broad range of challenges that are of concern to them. And Dr Wang on Tuesday presented a number of scenarios in his examination of armed attack. We encourage delegates to consider such threats and return in September with ideas on how a behaviours-based approach might help address these concerns.

We thank you for your kind attention.