

through accords banning debris-generating tests, regulating peacetime laser use, or restricting how close one country's spacecraft could come to another country's military satellites.¹⁴ Other U.S. experts whose primary interest is nuclear weapons policy have also adopted the idea of a trilateral kinetic energy (KE) ASAT ban.¹⁵

A stand-alone ban or normative prohibition on KE ASAT activities might seem like the most obvious area of overlap among traditional proposals for space arms control, emerging concerns about the space environment, and U.S. military preferences for temporary and reversible ASAT options over permanent and debris-generating ones. But a stand-alone KE ASAT proposal is too limited and lopsided to be a fair test of interest in cooperative space security. Moreover, if—as in the EU Code of Conduct—the rule included an exception for KE ASAT activities conducted in such a way as to reduce net space debris or to satisfy imperative safety concerns, but did not include an independent process to weigh competing claims about the positive safety or environmental benefits against the negative effects on space security, then the proposal would seem unfairly biased against the type of KE ASAT test that China conducted in 2007 and in favor of the kind that the United States conducted in 2008.

Without tighter legal constraints or other reassurances that satellites will not be used in intolerably threatening ways, key countries are unlikely to give up the right to damage or destroy them should national security imperatives override environmental considerations. This is especially true if one assumes that the United States has more non-debris-generating anti-satellite options than do other countries because of the relative magnitude of its military space programs and its preference for temporary, reversible, and environmentally friendly ASAT options. Nor would a stand-alone ban necessarily be a good stepping stone to broader cooperative space security. In the unlikely event that China and Russia agree to the space equivalent of the Limited Test Ban Treaty—e.g., an accord that addresses environmental concerns and constrains only the subset of activities most clearly in U.S. interests—it would decrease U.S. incentives to negotiate further restrictions on those military uses of space where it retains a significant interest and advantage.

Building on the Canadian Synthesis

The Canadian working paper, "On the Merits of Certain Draft Transparency and Confidence-Building Measures and Treaty Proposals for Space Security," is a creative attempt to synthesize ideas from these existing space security proposals into a compromise that could appeal to all the major players. The paper calls on the international community to address issues left unresolved in the OST by adopting a balanced package of security and safety guarantees as voluntary principles (soft law) that could evolve into formal treaty commitments (hard law) over time. It proposes that the CD negotiate a set of behavioral principles that would essentially rule out physical combat in space (e.g., the most destructive

¹⁴ Bruce MacDonald, "China, Space Weapons, and US Security," CFR No. 38 (September 2008), <http://www.cfr.org/publication/16707/>.

¹⁵ "US Nuclear Weapons Policy," CFR Independent Task Force Report No. 62, (April 2009), at: <http://www.cfr.org/publication/19226/>.