

**Preliminary comments of Mexico to the initial “Pre-draft” of the report of the  
OEWG on developments in the field of information and telecommunications  
in the context of international security**

Mexico holds the strong conviction that only through multilateralism will the international community be able to assure, with a long-term vision the legitimate and peaceful uses of cyberspace, the resilience in the digital environment and the realization of the possibilities of information technologies to be used as enablers of sustainable development to leave no one behind.

Mexico commends and decidedly supports the United Nations for its leading role in fostering inclusive and open deliberations on these topics by setting up, following the adoption of General Assembly resolutions A/73/27 and A/73/266, an Open-Ended Working Group (OEWG) and a Group of Governmental Experts (GGE) to advance stability in cyberspace. Mexico supports constructive work and engagement in both processes to achieve substantive results that help the international community to attain a world of rights, equity, respect for international law and inclusion in cyberspace.

Mexico recognizes the important work undertaken by the OEWG Chair to prepare the initial pre-draft of the *Report of the OEWG on developments in the field of information and telecommunications in the context of international security* and appreciates that written submissions were taken into consideration. Mexico holds the view that the pre-draft, in itself, could turn into a guiding document that would help States to reach agreements and develop common understandings among them and relevant stakeholders from the private sector, academia and civil society.

In response to the OEWG Chair’s call to provide comments to the pre-draft, Mexico submits the following remarks and observations for each of the section comprised in the document:

**Introduction**

- During the deliberations of both September 2019 and February 2020, an important number of Member States, and stakeholders alike, highlighted a sense of **urgency** of the international community (especially through the UN) to address the challenges related to cyberspace, which could be reflected in the introductory section.
- Emphasis can also be more explicit in acknowledging that Member States and all stakeholders must work hand-in-hand on issues of cybersecurity, especially due to its cross-cutting nature.
- In addition to the gender digital divide, a high number of Member States also pointed to the fact of the “digital divide” in general terms, but mostly linked to development.

- A reference could also be included to underline the importance that the different UN bodies and fora do not work in silos in order to avoid any duplication of efforts or overstepping mandates, thus ensuring a system-wide coherence.
- The concept of economic and social advancement/development throughout the document can be replaced with the widely-accepted concept of sustainable development.
- The concept of civilian applications could best reflect a technology-neutral approach, by making reference instead to “peaceful applications”.

### **Existing and potential threats**

- The list of existing and emerging threats should also include the issues of hate speech and intrusive software, which were widely highlighted by Member States and stakeholders alike.
- Notions of multilateral fora and cooperative efforts could be best exemplified with the role and efforts already undertaken by regional organizations.

### **International law**

- Taking into account that different UN Charter principles are mentioned with distinct emphasis by Member States, it would be preferable to make a general reference to all principles. Likewise, the specific mention to the UNSC and the ICJ could be encompassed in a broader mention to “all relevant UN organs and fora” as others were mentioned during the deliberations. Furthermore, issues of attribution should be set in a separate paragraph, as this topic goes beyond Charter principles.
- Further clarification from the OEWG Chair would be appreciated in terms of the authorship and scope of the guidance notes.

### **Rules, norms and principles of responsible State behavior**

- An important number of Member States and stakeholders supported the idea of a UN follow-up mechanism regarding Member States’ level of implementation of the voluntary norms as endorsed by the UN General Assembly.
- Deliberations shed light on the varying degrees of implementation of the norms by Member States. Especially developing countries highlighted that more guidance is needed on actual implementation, as well as its linkage with capacity-building efforts.

### **Confidence-building measures**

- The contributions of CBMS to a peaceful international environment should be also taken into account in promoting stability and predictability, both in cyberspace and in the general international security context.
- Member States and stakeholders highlighted the importance of the private sector and civil society in complementing actions taken by Member States. Voluntary commitments, codes, and standards can also be applicable to the norms, rules, and principles as clearly voiced during the formal and intersessional meetings of the OEWG.
- In the formal session of the OEWG, Member States reflected on the need for tangible actions that are implementable by all States in the case of the voluntary norms, in a way that is similar to that of the norms section.
- A placeholder similar to that of paragraph 39 could also be placed in this section to allow for proposals on CBMs.

### **Capacity-building**

- The concept of a “global capacity-building agenda” could be replaced with the notion of a mechanism under UN auspices, which would encapsulate more accurately the deliberations and proposals put forward by Member States.
- In addition to the linkage to the Women, Peace and Security Agenda, it would be worthwhile to refer to the First Committee resolution “Women, disarmament, non-proliferation and arms control” (73/46), as most of its concepts and contents were mentioned indirectly during the OEWG deliberations.

### **Regular institutional dialogue**

- The summary of the intersessional meeting with stakeholders is not necessarily linked only to the regular institutional dialogue aspects, and thus, could be ideally located earlier on in the document.

### **Conclusions and recommendations**

- The study proposed to be undertaken by the International Law Commission would benefit from a broader scope on the applicability of international law to cyberspace, rather than circumscribing it only to national views and practice, which is limited for the time being. Likewise, a study of this nature should be understood as complementary to national positions that have been or can be put forward by Member States.

- Some Member States have proposed the use of a common standard survey of national implementation. In this regard, Mexico and Australia are jointly leading an effort to propose the use of a common standard survey of national implementation, that can further be used to identify gaps and barriers to implementation, which could then better inform future cooperation, more focused training programmes and tailored capacity building. The proposal to be submitted is already co-sponsored by Argentina, Canada, Chile, Denmark, France, Indonesia, Kenya, New Zealand, Pacific Island Forum Member States, Poland, and South Africa, and will be open to further co-sponsorship by interested States.
- Member States highlighted the importance of match-making between capacity-building requests and offers, which could be a key component of a global mechanism. Furthermore, effective and enhanced coherence can also result from the acknowledgement of tailor-made capacity building that is responsive to different national and regional situations.
- Taking into consideration the undeniable need to work hand-in-hand with all stakeholders, an additional recommendation should be introduced to ensure constant feedback with the private sector, civil society, and academia, in whatever format the regular institutional dialogue on cybersecurity might occur.
- An informal early warning system could also be established to aid Member States in promptly identifying cyber-attacks that could spill over to other countries, share experiences in identifying common patterns of attacks, and in general to foster confidence among Member States.
- An additional recommendation can also be introduced to ensure that the efforts undertaken by Member States are adequately linked and are coherent with the specific actions (28, 30 and 31) on cybersecurity proposed by the Secretary General's Agenda for Disarmament.

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