Observations of the Delegation of the Islamic Republic of Iran to the Proposed Modalities for the Participations of NGOs in the work of the OEWG on Security of and in the use of ICTs 2021-2025

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We consider the consultations and interactions with NGOs beneficial and valuable, however, we consider OEWG to be a governmental process, upon which the States are the master of decision making and negotiations are the duties and inherent right of Member States of the UN. So, our strong preference is that NGOs present their opinions and views at informal consultative meetings with the Chair of the OEWG as already was suggested by our distinguished Chair.

As we have reviewed the new modality suggested by the Chair, there are some controversy, ambiguity, and problems, surrounding such proposal, that we think they should be clarified before any agreement:

1- On Para one, the chair has put three unclear concepts regarding the engagement with stakeholders such as: Systematic, sustained, and substantive which we think are new challenging innovations that somehow would change the governmental processes by their implications;

2- The observer status of the NGOs with their participation in formal meetings of the OEWG to give them the parallel formal status along with states in particular for those that do not have accredited status in terms of UN Economic and Social Council procedure for consultative status, is not consistent with established UN rules and regulations. The blanket veto for objection to NGOs should not be converted to blanket approval of participation of stakeholders that is a governmental process;

3- The rules of procedure of the UN ECOSOC are as such that, if any NGO cannot be able to get accreditation, the non-objection by the decision of States shall be applied to create a balance between blanket veto and blanket approval. The Chair’s suggested modality to this procedure has breached this well-established and balanced procedure.

4- Para 4 of the Chair proposed modality, has created an opportunity for a second list as to formally attend the meetings, make statements in dedicated time as an observer. This change in the procedure is also against the element of non-equitable representation of NGOs from developing countries and with the large number participation of western NGOs in recent informal consultations conducted by the Chair. It would result in imbalance and may create and covert the OEWG governmental process to a political game-blame campaign that the Governmental
OEWG should avoid and prevent. So we are not sure as to how such formal attendance and participation of NGOs would end up. Therefore, this process requires caution and review of WHO is WHO before changing modality that is going to modify the non-objection mechanism;

5- Para 6 of the Chair proposal in which the non-objection mechanism has been modified, practically precludes the authority of UN member States to object to attendance and participation of any given NGO;

6- Apparently, while it is yet to discuss and decide on any norms- making, some with political agenda has already discussed and suggested triggering Chapter 6 & 7 of the Charter in dealing with the applicability of International Law in cyberspace malicious use, while there is no border in cyberspace, and the principle of state sovereignty in the use of ICTs including the participation of NGOs should be well observed. This principle of States sovereignty requires that no state be singled out for any objection to the participation of NGOs. Para 6 of the proposed modality is ignoring this fact and principle of state sovereignty and ultimately is intending to single out any state or states for their objections. This is beyond the UN rules. And while there are large number of Western NGOs in cue to participate in the OEWG process, there is no observance of equitable representation in their participation. Without consideration of the principle of equitable representation, this will not be a balanced decision;

7- Last, but not least, seemingly this issue of modality has also been raised in the conduct of the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of ICTs for Criminal purposes and they came up with a different formulation where this non-objection basis has been elaborated differently (UN GA 75, Resolution A/RES/75/282* dated 1 June 2021) this may require study and review.

Finally, we are not against the engagement of the OEWG with NGOs, and States could obtain inputs and views of the NGOs in advance and represent their viewpoints in the OEWG process. They also go to other UN-specific and related to INTERNET governance bodies such as UNIGF, which cyber security is on its agenda, and channelized their comments to the OEWG in the dedicated informal meetings, if there is genuine intention to contribute to the OEWG process. However, before agreeing to any modality by consensus, we are of the firm view that such ambiguities and challenges have to be clarified and addressed very carefully and comprehensively.