International law has been a key topic in UN processes on cybersecurity. This is reflected in the mandates of the UN Group of Governmental Experts (GGE) and the first Open-ended working group on developments in the field of information and telecommunications in the context of international security (OEWG) and in their final consensus reports.

The current multi-year OEWG presents an opportunity for Member States to develop priorities and strategies for further progress on international law, notably to build common understandings and consensus on important aspects of how international law applies in cyberspace.

The ongoing critical work of the present OEWG provides an invaluable opportunity to further build on the consensus that international law applies to State action in cyberspace (referred to as the acquis).

The work of the current OEWG should build on this acquis and on the framework for responsible state behaviour in cyberspace developed and reaffirmed by the UN GGEs and OEWG.¹

We recall the recommendation from the 2021 OEWG Report that “States continue to study and undertake discussions within future UN processes on how international law applies to the use of ICTs by States as a key step to clarify and further develop common understandings on the issue.”

We note the mandate of the current OEWG which includes reference to international law, and in particular:

“to continue to study, with a view to promoting common understandings…”

how international law applies to the use of information and communications technologies by States, as well as confidence-building measures and capacity-building\(^2\).”

An agreed structured approach on international law will help ensure that the present OEWG process fulfils its potential as an effective Confidence Building Measures amongst States and at the same time as an effective capacity-building process on international law.

We propose that this could be done by defining specific international law topics to be discussed during designated sessions and to include them in any future agenda and proposed program of work. This will enable Member States to prepare to participate effectively in the discussions and foster the clarification and further development of common understandings on the application of international law in cyberspace. Cross-regional cooperation in these activities would be encouraged.

Consideration of specific topics should contribute to both capacity-building and confidence-building measures among States. In line with the focus on capacity building on international law in the recommendation of the OEGW 2021 report and to strengthen the potential for future national positions on international law, we suggest including independent expert briefings as part of the sessions. Sessions may also consider guiding questions developed in advance, which may be proposed through cross-regional dialogue.

Moreover, we propose that the Chair encourages the exchange of a diverse range of views on such topics, focused on the practical aspects of the application of international law, and invites the participation of external stakeholders from civil society and academia with relevant expertise in these areas.

We recall as well the consensus conclusions on international law in the 2021 GGE report, in particular:

“that continued discussion and exchanges of views by States, collectively at the United Nations on how specific rules and principles of international law apply to the use of ICTs by States is essential for deepening common understandings, avoiding misunderstandings and increasing predictability and stability. Such discussions could be informed and supported by regional and bilateral exchanges of views between States.\(^3\)”

As recognized in both the 2021 OEWG and 2021 GGE reports, continued dialogue on international law can have practical benefits, helping to reduce misunderstandings and increase stability. These practical considerations should be kept in mind in the OEWG’s consideration of international law for the entirety of its mandate.

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\(^2\) A/RES/75/240, OP1.

\(^3\) 2021 GGE report, para. 72.
Canada and Switzerland have the honour to propose for inclusion in the first annual progress report of the OEWG, and as appropriate in further reports, the following elements on International Law:

- Reaffirmation of the *acquis* that international law applies in cyberspace and of the framework for responsible State behavior from past OEWG and GGE reports;

- Reaffirmation of the statements on international law, esp. from the 2013, 2015 and 2021 GGE Reports;

- Reaffirmation of discussions and recommendations on IL from the 2021 OEWG Report;

- Welcoming the efforts, in line with the recommendations of the 2021 OEWG, and earlier reports from UN processes related to capacity building efforts and the publication of national statements by a growing number of States to further clarify their positions on how IL applies in cyberspace;

- Reaffirmation of the continued relevance of the agreed eleven (11) voluntary, non-binding norms of state behaviour as a complement to IL. As recognised in the 2021 OEWG report, these norms do not replace or alter States’ obligations or rights under international law, which are binding, but rather provide additional specific guidance on what constitutes responsible State behaviour in the use of ICTs.\(^4\)

Further, Canada and Switzerland have the honour to propose the following specific topics as a non-exhaustive selection of international law topics to be prioritised in any future proposed program of work for the current OEWG.

1. The Charter of the United Nations

2. State responsibility:

3. Peaceful settlement of disputes; and

4. International Humanitarian Law

We look forward to continuing the important and productive work of the OEWG process.

**Feedback and Comments**

Canada and Switzerland welcome feedback and comments from Member States and other concerned stakeholders on the substance of this proposal.

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\(^4\) 2021 OEWG report, para. 25
We equally welcome expressions of interest by OEWG delegations which may wish to partner with us in the further development of this proposal and in its implementation.

Please address comments, suggestions, questions and expressions of interest to:

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