

## **Open-Ended Working Group on security of and in the use of information and communications technologies 2021-2025 (OEWG): Reflections on the first draft Annual Report**

### **Overall comments**

- We are grateful for the action-orientated nature of the Annual Report. This will help ensure that the OEWG delivers tangible progress.
- As a small country, we find the proposed 'roadmap' approach within the Annual Report extremely helpful and would welcome greater detail on the future sessions for the remainder of the OEWG. This would allow us to consider how and when our limited resource can best be deployed, allowing for more meaningful engagement.
- The consensus agreement of the multi-stakeholder modalities was been one of the key achievements of the OEWG to date and should be reflected in the Annual Report. We similarly see benefit in the role of stakeholders being brought out in the recommendations as well as the background of the report.
- While recognising the need for inclusivity, we would support a distinction between the proposals that enjoy the support of the majority of states, and those which may have only been proposed by one state or a small number of states.
- We suggest the inclusion of references to gender, noting it has been a key element in many states' interventions to date.

### **Threats**

- The cyber threats faced by states are arguably greater now than ever before, and the expansion and proliferation of these threats was a clear theme across many states' interventions during the first two sessions of the OEWG. A shared understanding of the threats faced is required in order for states to agree on approaches to combatting these threats.
- We also note the technical expertise of many stakeholders in building the future understanding of both existing and potential threats and consider a reference to the role of stakeholders in building this knowledge across the international community could be useful.

### **Rules, Norms and Principles of Responsible State Behaviour**

- Raising awareness and supporting implementation of the existing norms of responsible state behaviour is one of the most practical and achievable outcomes the OEWG can deliver. Given this, we would prefer a greater emphasis on implementation of existing norms over the development of new norms.
- We support the development of guidance on norms implementation as a practical outcome.

### ***Confidence Building Measures***

- We support the promotion of regional cooperation outlined in the recommendations, reflecting the excellent engagement that already exists through regional fora.

### ***Capacity Building***

- We refer to the Pacific Islands Forum countries statement at the last session which welcomed the commitments to establish comprehensive capacity building assistance. This capacity building ensures that the global threats to cyber security can be managed, while opening opportunities for all countries' sustainable development.
- We note the extent of work under way through other fora and processes and note the importance of avoiding duplication. This is particularly important for small states (both donor and recipient) with limited ability to engage with multiple process simultaneously.

### ***International Law***

- We support the reference in introduction of the draft Annual Report to the acquis from past OEWG and GEE reports that international law applies in cyberspace. We would also support the addition of specific references in the international law section to the statements on international law from the 2021 OEWG report and 2013, 2015 and 2021 GGE reports, which were adopted by consensus and endorsed by the UN General Assembly. Such statements include the requirement for the peaceful settlement of disputes (2021 OEWG report), the applicability of international humanitarian law to situations of armed conflict and the need to study how and when principles of humanity, necessity, proportionality and distinction apply to the use of ICTs by States (2021 GGE report)
- We also support the reference in the introduction to the eleven voluntary, non-binding norms of state behaviour, which do not alter but complement States' international legal obligations by providing specific guidance on responsible State behaviour in the use of ICTs.
- In the international law section, we support reference to the OEWG identifying specific topics related to international law for discussion at future sessions, as a way to deepen

common understandings, as noted in the 2021 OEWG report.<sup>1</sup> We also support the reference to the possibility of expert briefings on particular topics, including from the International Committee of the Red Cross.

- On the non-exhaustive list of specific topics proposed by States, we would support a distinction between the topics that have a degree of consensus as candidates for discussion, and those that do not. The framing of the list should specify that it includes all topics proposed by States but note the varying levels of support they have. New Zealand for example would support the inclusion of The Charter of the United Nations, state responsibility, peaceful settlement of disputes, international human rights and freedoms as topics for discussion but would not support the other topics currently listed.
- We also propose international humanitarian law to be included in the list of topics.

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<sup>1</sup> At [36].