



AUSTRALIA'S SUBMISSION: PROGRAMME OF ACTION TO ADVANCE RESPONSIBLE STATE BEHAVIOUR IN THE USE OF INFORMATION AND COMMUNICATIONS TECHNOLOGIES IN THE CONTEXT OF INTERNATIONAL SECURITY

13 April 2023

Australia welcomes the opportunity, in response to the invitation in General Assembly Resolution 77/37, to provide its views on the scope, structure and content for the Programme of Action to advance responsible state behaviour in the use of information and communications technologies in the context of international security (PoA) and the preparatory work and modalities for its establishment. This submission builds upon [Australia's research paper](#) submitted to the UN Open-Ended Working Group (OEWG) 2019-2021.

Australia supports the establishment of a single, permanent, flexible, inclusive, transparent, and action-oriented mechanism, under the auspices of the UN First Committee, to discuss, implement and advance the Framework of Responsible State Behaviour in Cyberspace (the Framework), agreed and reaffirmed by consensus by the General Assembly. The Framework consists of international law, norms, confidence building measures, and supported by coordinated capacity building. The PoA should provide a forum where all 193 Member States can meaningfully engage in both discussion and action, on a regular and ongoing basis. The PoA should be able to grow, pivot and develop – it should support implementation of the existing agreed Framework and allow for potential further development of the Framework, by consensus, as new threats and challenges arise.

Scope

States have recognised 'there is an urgent need to continue to enhance common understandings, build confidence and intensify international cooperation' as well as 'the utility of exploring mechanisms dedicated to following-up on the implementation of the agreed norms and rules as well as the development of further ones' (A/75/816).

Under the auspices of UN First Committee, the scope of the PoA should inherently focus upon existing and emerging threats in cyberspace with the potential to impact on international peace, security, or stability, and measures to address them. The PoA's overall objective should be to contribute to the maintenance of international peace and security, by promoting and preserving an open secure, stable, accessible, peaceful, and interoperable cyberspace.

Mandate

Key to the scope of the PoA will be a clear and effective mandate. This mandate must take, as its foundation, the agreed Framework, and provide appropriate flexibility for the PoA to build upon and further develop the Framework.

To this effect, the PoA's mandate should provide a clear basis to promote, refine and implement common understandings and cooperative measures to respond to current and emerging cyber threats in the context of international security, including how international law applies to state behaviour in cyberspace, non-binding norms of responsible state behaviour, measures to build trust and confidence between States, and targeted, coordinated capacity building to implement the Framework. The mandate should provide a periodic opportunity to assess whether additional actions are necessary to respond to the rapidly evolving cyber environment.

Structure and Content

Political Declaration

The PoA could be based upon a Political Declaration, setting out the commitments of States, and providing a mechanism that could be endorsed by an UNGA Resolution. The Political Declaration should:

- endorse and reaffirm States' political commitment to the Framework (including the application of existing international law in cyberspace) as agreed in successive Group of Governmental Experts (GGE) reports¹ and the OEWG report²;
- recall existing and emerging threats to international security related to the malicious use of ICTs, building on the threat assessments contained in the GGE and OEWG reports;
- establish a permanent institutional mechanism to advance implementation of this Framework (including supporting States' capacities to do so) and the relevant modalities;
- allow for further development and updates to the Framework as appropriate to include consensus principles, recommendations and commitments in the event that UNGA, by consensus, endorses a report of the OEWG, GGE or other UN processes, or by consensus agreement at a PoA Review Conference.
- set out focus areas of work for the PoA based upon issues the international community agrees to discuss and address; and
- clearly foster and encourage engagement with relevant members of the multistakeholder community in relevant areas.

Australia proposes States could affirm their commitment to a Political Declaration at a high-level event at the first Review Conference of the PoA. The Declaration should also be able to be updated via consensus and set the agenda for the next round of meetings. Additionally, Australia recognises the key role of the OEWG in establishment of the future mechanism and suggests the 2021-25 OEWG play a role in the discussion, development, negotiation and adoption of a Political Declaration for the PoA – noting that any Political Declaration should be **agreed by consensus** by all countries.

Yearly meetings, review conference and technical meetings

Australia remains flexible on the frequency and type of meetings that might be convened under the PoA. For example, the PoA could hold annual formal sessions, which could collate the work of technical workstreams convened throughout the year. Review conferences every several years (for example, every three or four years) could be held to review and update the Political Declaration and resulting commitments and actions. The annual formal sessions could decide on the creation of working groups or workstreams to focus on the pressing issues to advance through the PoA and adopt decisions and recommendations by consensus. This should be based upon the work conducted by technical workstreams, which should be inclusive and encourage participation of experts, and are dedicated to specific issues set out in the Political Declaration. As a starting point, the first cycle or session of the PoA could include topics such as the Framework's protections for critical infrastructure against malicious cyber activity, protection of healthcare and medical services from malicious cyber activity, or the application of international law to hypothetical examples of types of malicious cyber activity. As technology advances, threats evolve and proliferate and challenges to implementation remain, therefore the PoA should provide a vehicle to increase agility in the face of such change.

In relation to rules of procedure, Australia reiterates that the PoA require agreement on all issues by **consensus** (including reports, recommendations, and declarations).

¹ A/65/201 (2010); A/68/98 (2013); A/70/174 (2015); A/76/135 (2021).

² A/AC.290/2021/CRP.2.

Implementation

To ensure PoA activities are evidence based and data driven, the PoA should emphasise supporting implementation efforts, including through specific, targeted, coordinated capacity building. Measures for dedicated capacity building should be elaborated clearly within the PoA. To promote targeted capacity building which is based upon need and founded upon an evidence base, the PoA might encourage Member States to survey and self-report on their implementation of the Framework periodically (for example, every three years, or otherwise in line with the review conference cycle) using a standardised reporting mechanism, the *Survey of National Implementation of UN General Assembly Resolution 70/237*: <https://nationalcybersurvey.cyberpolicyportal.org/>. We also propose the PoA allow for regular consultation with relevant stakeholders.

Preparatory work and Establishment

The OEWG plays a key role in the elaboration and preparatory work of the PoA. The PoA should build on the hard-fought consensus gains and cumulative discussions of the past six GGEs and the inaugural and current OEWGs. A permanent mechanism represents the next phase or evolution in UN cyber architecture that builds upon what has come before and guarantees that these issues are accorded the attention and importance they merit going forward. The PoA should only begin at the conclusion of the current OEWG (2021-25).

Conclusion

In summary, Australia emphasises that the PoA should have a clear mandate that builds upon and reaffirms the agreed Framework; be flexible, both substantively in that the Framework may be further developed by consensus and procedurally; support implementation efforts through voluntary reporting and in implementing the Framework through capacity building; and be inclusive in that decisions on matters related to international security remain the prerogative of States, yet discussions and working groups be open to the multistakeholder community.

We look forward to continuing to work with the Secretary General, Office of Disarmament Affairs, and Member States to develop an effective, flexible and inclusive PoA.