Regular institutional dialogue in the use of ICTs in the context of international security

France’s submission to the Secretary General’s report mandated by UN General Assembly Resolution A/RES/78/237

I – Introduction

- For over 20 years, States have recognized that ICTs, while they are a catalyst for human progress and development, can potentially be used for purposes that are inconsistent with the objectives of maintaining international stability and security.

- Since 2003, the General Assembly First Committee has created a succession of working groups which have undertaken efforts to preserve international peace, security and stability in the ICT environment. To that end, they have consolidated a framework for responsible State behaviour in the use of ICTs, endorsed by the General Assembly in consensus resolutions1.

- These working groups have also discussed the establishment of a “regular institutional dialogue” (RID) to address issues related to the use of ICTs in the context of international security.

- It has been underlined that such a RID should place a strong focus on supporting the implementation of the framework. In particular, the 2019-2021 OEWG concluded that any future RID should be “an action-oriented process with specific objectives, building on previous outcomes, and be inclusive, transparent, consensus driven, and results-based”2. States have also underlined the “utility of exploring mechanisms dedicated to following-up on the implementation of the agreed norms”3.

- Meanwhile, States have also observed that the framework is “cumulative and evolving” in nature, and that additional norms could be developed over time. Separately, they have also noted the possibility of future elaboration of additional binding obligations, if appropriate4. While supporting implementation of the existing agreed framework, future RID should thus allow for the potential further development of said framework, especially as new threats and challenges may arise.

- In this context, the proposal supported by a cross-regional group of States to establish a Programme of action would provide First Committee with a permanent institutional mechanism which would follow-up on the implementation of the agreed framework, while also allowing for its further development, if appropriate.

- The report of the Secretary-General A/78/76 on the Programme of action to advance responsible State behaviour in the use of information and communications technologies in the context of international security recommended that States continue to discuss the potential scope, structure, principles, content, functions and follow-up mechanism of the programme of action proposal under the auspices of the 2021-2025 OEWG, drawing on the views expressed in the report while also taking into consideration the regional and subregional consultations organized by the Office for Disarmament Affairs pursuant to General Assembly resolution 77/37.

- This contribution is an update of France’s national contribution included in report A/78/76 to take into account the progress enabled by UNGA resolution A/RES/78/16 and by the continuation of discussions within the 2021-2025 OEWG.

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1 See UNGA Resolutions A/RES/70/237, A/RES/76/19.
3 Final report of the 2019-2021 OEWG, A/75/816, paragraph 73.
4 UNGA Resolution A/RES/76/19, PP10.
II – Scope and objectives

• As a First Committee mechanism, the scope of the PoA would be matters related to the use of ICTs in the context of international security. Its overarching objective would be to contribute to the maintenance of international peace and security, by preserving an open, stable, secure accessible and peaceful ICT environment.

• To that end, the PoA should seek in particular to achieve the following objectives:
  o Cooperation: to reduce tensions, prevent conflicts and promote the use of ICTs for peaceful purposes through a cooperative approach in dealing with cyber threats, and inclusive dialogue among States as well as with relevant stakeholders;
  o Stability: to advance stability in cyberspace, by supporting the implementation of, and further developing if appropriate, the framework for responsible State behaviour based on international law, including international humanitarian law and human rights, norms of responsible State behaviour, confidence-building measures and capacity-building;
  o Resilience: to contribute to the reduction of digital divides and the strengthening of global resilience in relation to the implementation of the framework for responsible State behaviour.

III – Structure and content

Institutional structure:

The PoA could be based on a political document, which would notably:

(i) reaffirm States’ political commitment to the framework for responsible State behaviour, as affirmed in relevant reports and resolutions. This founding commitment would take into account the consensus outcomes adopted within the 2021-2025 OEWG (for example, the establishment of a global intergovernmental directory of points of contacts, the possible global portal on cooperation or the idea of a repository of threats). These consensus outcomes should be built upon in a future PoA.

(ii) establish a permanent institutional mechanism to (i) advance implementation of this framework, including by supporting States’ capacities to do so, (ii) further develop the framework as appropriate, (iii) foster multistakeholder cooperation in relevant areas.

The PoA, as a permanent mechanism could be based on the following institutional structure:

• Regular plenary meetings, which could be held on a yearly or twice-a-year basis (France is open to further discussions on the optimal periodicity of PoA meetings, taking into account States’ capacities as well as the need for the PoA to keep up with the pace of developments in the field of ICTs). These meetings could (i) discuss existing and emerging threats, (ii) consider the implementation of norms, rules and principles, (iii) further discussions on how international law applies to the use of ICTs, and identify potential gaps, (iv) discuss the implementation of confidence-building measures, (v) identify priorities for capacity-building, also on the basis of voluntary reporting, (vi) identify further actions needed and determine the programme of work for intersessional meetings. Yearly conferences could decide by consensus to create technical work streams, open to all States and relevant stakeholders, focused on specific items (see below). Participation by technical and legal experts would be encouraged.

• Intersessional meetings would advance the programme of work agreed upon by yearly meetings. Their work could be structured in technical work streams, or open-ended technical meetings or

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5 This would include UNGA resolution A/RES/76/19, the 2010, 2013, 2015 and 2021 consensus reports of the groups of governmental experts, the 2021 report of the Open-ended Working Group, the first annual progress report of the open-ended working group 2021–2025, bearing in mind that the future consensus outcomes of the current 2021-2025 OEWG will add to this framework which is cumulative and evolving.

6 See UNGA Resolution 77/37, A/RES/77/37, OP2, and UNGA Resolution 78/16, OP2.
working groups, focused on specific items, in accordance with the priorities and areas of work identified by yearly meetings.

- **Review conferences** could be held, for example every four years, to consider whether the framework should be updated, and further develop it if appropriate (see below). A dedicated workstream may be created to deepen discussions on how international law applies to the use of ICTs, and assess whether gaps exist in the framework that may call for its further development.

**Content:**

(i) **Advancing the implementation of the framework**

- **The PoA would encourage voluntary reporting of national implementation efforts**, either by creating its own reporting system or by promoting existing mechanisms (eg, UNIDIR’s National Survey of Implementation, or national reports to the UNSG). This reporting would serve as a basis to identify priorities regarding implementation of the framework, and map needs in terms of capacity-building.

- **PoA plenary meetings would be able to adopt, and regularly update, actionable recommendations for national implementation efforts.** In keeping with the institutional structure described above, PoA yearly meetings could create technical workstreams open to the voluntary participation of all Member States, aimed at advancing exchanges on specific aspects related to the implementation of the framework.

- **For example, a plenary meeting may identify a thematic priority for the implementation of the framework, such as the implementation of a given norm or CBM, the security of ICT products and services, protection of critical infrastructure, etc.** To further exchanges on this topic, bring technical expertise, discuss best practices and challenges, the plenary meeting may decide to create a dedicated work stream. The work stream would then take place in the intersessional meetings of the PoA. Its conclusions and recommendations would be submitted to the following plenary meeting.

- **The PoA would support capacity-building efforts in relation to implementation of the framework, and seek to enhance multistakeholder cooperation in this area as well as coordination with other relevant initiatives.**
  - States could discuss the establishment as part of a future PoA of a voluntary trust fund to fund certain activities aimed at promoting the framework for responsible State behaviour. Such a fund could build on the example of the United Nations Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR)7. Projects or initiatives funded by such an instrument should be in line with “terms of reference” which the first PoA meeting could agree upon (promoting adherence to the framework, respect for the guiding principles for capacity-building agreed in the 2019-2021 OEWG Final report, etc.).
  - The PoA would also seek to leverage existing efforts and initiatives. PoA meetings, and intersessional meetings of a technical working group on capacity-building, would allow States to discuss priorities in this area (taking into account the needs identified via voluntary reporting), and stakeholders to present relevant initiatives. The PoA could also develop a “labelling” system to endorse and promote activities in line with its objectives.
  - During PoA meetings, briefings could be delivered by representatives of other organizations (ITU, World Bank Cybersecurity Trust Fund), to ensure coordination and complementarity between capacity-building activities taken by each structure (each acting within its own mandate and area of competence).

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7 UN Trust Facility Supporting Cooperation on Arms Regulation: [https://www.un.org/disarmament/unscar/](https://www.un.org/disarmament/unscar/)
(ii) Developing the framework
If appropriate to address emerging challenges, regular meetings and/or review conferences would be able to update the framework (by enabling discussions on the further development of the framework, including by deepening common understandings on the norms and on how existing international law applies in the use of information and communications technologies, identifying any gaps in those understandings and, if appropriate, considering the need for additional voluntary, non-binding norms or additional legally binding obligations), on the basis of consensus.

(iii) Multistakeholder involvement
Mindful that “States bear primary responsibility for the maintenance of international peace and security” and shall therefore retain the central role (including exclusive decision-making power) in any First Committee process, France supports enhanced multistakeholder engagement and cooperation in a future PoA.

- Decision-making and negotiation of outcome documents would remain the exclusive prerogatives of States.
- Meanwhile, the value of further strengthening collaboration, when appropriate, with civil society, the private sector, academia and the technical community, was repeatedly emphasized by relevant First Committee working groups. Cooperation with these stakeholders can be essential for States to implement their commitments under the framework. In addition, these stakeholders themselves “have a responsibility to use ICTs in a manner that does not endanger peace and security.” Private stakeholders can also bring valuable expertise to discussions and contribute to capacity-building efforts.
- Modalities for the proceedings of PoA meetings should therefore enable stakeholders to attend formal sessions, deliver statements and provide inputs, as is the case in other First Committee processes where their expertise is useful, such as the GGE on lethal autonomous weapons systems convened within the Convention on Certain Conventional Weapons (CCW). Such modalities would also be conducive to a more transparent process by allowing for multistakeholder dialogue in a formal setting.
- To ensure inclusivity, participation by stakeholders from all regional groups should be encouraged and supported, including via specific sponsorship programmes.

IV – Preparatory work and modalities for the establishment of a PoA

Preparatory work:
France supports further focused, dedicated discussions in the 2021-2025 OEWG to further elaborate the PoA and seek consensus on its establishment.

- The final reports of the 2019-2021 OEWG and 2019-2021 GGE have recommended that the PoA should be further elaborated including at the 2021-2025 OEWG process. The 2022 and 2023 Annual progress reports of the current 2021-2025 OEWG also call for focused discussions on the PoA.
- The regional consultations conducted in 2023 and the UNSG report on the PoA allowed to collect views from a broad and diversified group of States. The UNSG report on the PoA states that consideration of the PoA proposal in an inclusive and transparent manner, firmly based on previous consensus agreements and progress made in the General Assembly, is a worthwhile endeavour. The 2nd annual progress report of the 2021-2025 OEWG contributed to this endeavour, by including “common elements” that are agreed in principle to reach, including by

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8 See UNGA resolution, A/RES/78/16, OP3.
12 Article 49 of the rules of procedure used in the CCW (and adopted for this Convention’s 5th Review Conference in 2016).
continuing discussions on additional elements a constructive manner, a common conception of the future mechanism for regular institutional dialogue.

- UNGA Resolution 77/37 also foresees that the UNSG report on the PoA should be submitted to the General Assembly and serve as a basis for further discussion within the OEWG. Many States have insisted that the OEWG should be used as the primary forum to further develop the PoA with a view to its future establishment.
- Therefore, intersessional meetings and dedicated sessions of the OEWG should be organized in 2024 and 2025 to continue elaborating the different aspects of the PoA, draft its founding document, etc.

**Establishment:**
**France supports further discussions on the precise modalities for the establishment of the future mechanism.**

- UNGA Resolution 77/37 noted an “international conference” as an option to establish the PoA (as was done for example for the PoA on small arms and light weapons). UNGA resolution 78/16 decided to establish a mechanism under the auspices of the United Nations, upon the conclusion of the 2021-2025 OEWG and no later than 2026, that will be permanent, inclusive and action-oriented, with the specific objectives affirmed in UNGA resolution 77/37 and with the common elements for future regular institutional dialogue agreed by consensus in the 2023 annual progress report of the 2021-2025 OEWG. If States decide in favour of this establishment modality, an international conference could be convened, in 2025, to adopt the founding document of said mechanism, on the basis of the preparatory work done in the 2021-2025 OEWG.
- This international conference should make decisions on the basis of consensus, at least on matters of substance. It should provide for participation by relevant stakeholders (accredited with modalities close to those adopted via resolution 75/282 for the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes).
- The General Assembly could then adopt a Resolution which would welcome the outcome of the conference, and decide to hold the first meeting of the newly created mechanism.