Introduction

UN Member States have acknowledged that information and communications technologies (ICTs) have the potential to be used for purposes that are inconsistent with the objectives of maintaining international peace and stability. Over the course of many years, States have come together under the auspices of the United Nations to discuss and address this issue. Through consensus affirmation of reports from the UN Group of Governmental Experts (GGE) and UN Open Ended Working Group (OEWG), States have coalesced around a framework for responsible State behavior in the use of ICTs. This framework for enhancing international stability is comprised of the embrace of relevant international law, including the U.N. Charter, as well as a set of non-binding norms and confidence building measures.

While the framework has received global support, its success depends on states’ adherence to and implementation of its elements. As first articulated in the consensus report of the 2015 GGE, States have affirmed the need to establish regular institutional dialogue with broad participation under the auspices of the United Nations.1 Building on that effort, the OEWG has since continuously reaffirmed the need for states to pursue the establishment of a mechanism for future institutional dialogue.2

Further, in the most recent consensus OEWG Annual Progress Report, States agreed on an initial set of common elements of regular institutional dialogue, and also agreed to continue discussions on a future Programme of Action. States agreed, importantly, in the APR that future regular institutional dialogue take “as the foundation of its work the consensus agreements on the Framework of Responsible State Behavior.”3 States also agreed that future dialogue be single-track, state-led, and permanent.4 States further concluded the mechanism will be open, inclusive, transparent, sustainable, and flexible5 so that it can adapt as necessary to the rapidly evolving cyber threat landscape. The Secretary General published a report, A/78/76, in April 2023 that underscored the urgency of establishing the POA and highlighted many of the same issues addressed by the common elements identified in the OEWG’s 2023 APR, including that the Framework “must serve as a baseline” for the POA6. The report also concluded that many States value inclusive, meaningful participation of non-governmental

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1 See A/70/174, paragraph 18
2 See A/75/816, paras. 70–74 and A/78/265, para. 52.
3 See A/78/265, paragraph 55(c)
4 Ibid., paragraph 55 (a)
5 Ibid., paragraph 55 (d)
6 A/78/76 paragraph 42
stakeholders.States continued to call for meaningful multistakeholder participation in formal and intersessional meetings of the OEWG.

Over the course of the last two years, States have coalesced around the Programme of Action (POA) as the future permanent mechanism for UN First Committee discussions on cyber issues. Most recently, nearly all UN Member States voted in favor of UN resolution 78/16 that decisively establishes the mechanism under the auspices of the United Nations upon the conclusion of the current Open-Ended Working Group on Security of and in the use of ICTs.

As outlined in the resolution, the Programme of Action (POA) will serve as a permanent, but flexible, mechanism in the UN to advance the work of the framework to enhance peace and security in cyberspace, including through meaningful engagement with the multistakeholder community and facilitating capacity building through the UN’s role as an information sharing platform.

**Scope of the Programme of Action**

Resolution 77/37 defined the scope and mandate of the POA as follows:

“A permanent, inclusive, action-oriented mechanism to discuss existing and potential threats; to support States’ capacities and efforts to implement and advance commitments to be guided by the framework for responsible State behaviour, which includes voluntary, non-binding norms for the application of international law to the use of information and communications technologies by States, confidence-building and capacity building measures, as affirmed in General Assembly resolution 76/19, the 2010, 2013, 2015 and 2021 reports of the groups of governmental experts, the 2021 report of the Open-ended Working Group on Developments in the Field of Information and Telecommunications in the Context of International Security and the first annual progress report of the open-ended working group on security of and in the use of information and communications technologies 2021–2025; to discuss, and further develop if appropriate, this framework; to promote engagement and cooperation with relevant stakeholders; and to periodically review the progress made in the implementation of the programme of action as well as the programme’s future work”

Resolution 78/16 reaffirmed the objectives of the POA as articulated in resolution 77/37 and also decided that the mechanism would have the common elements outlined in the 2023 OEWG progress report. Furthermore, the resolution decided that the POA’s scope, structure, content and modalities would be based on the OEWG’s consensus outcomes.

Throughout the POA resolutions and the consensus resolutions that affirmed GGE and OEWG reports, States have repeatedly affirmed the expectation that states should be guided in their actions by the assessments and recommendations of the 2010, 2013, 2015 and 2021 groups of

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7 A/78/76; paragraph 40
8 UN resolution 77/37, paragraph 26
governmental experts, as well as those of the 2021 Open-ended Working Group on Developments in the Field of Information and Telecommunications in the Context of International Security,” along with the current OEWG’s consensus products (e.g. the first and second annual progress reports), and in particular “the cumulative and evolving framework for responsible State behavior in the use of information and communications technologies elaborated by these processes”. This consensus framework, articulated by the consensus GGE and OEWG reports and repeatedly endorsed by all UN member states, is the foundation of the POA.

Member states will set the POA’s direction and update it over time, maintaining a priority focus on practical implementation and capacity building work dedicated to the implementation of the framework. The permanent nature of the POA will make it a durable resource for states in these efforts.

As a permanent mechanism, the POA must also have the flexibility to address future threats and the agility to assess States’ evolving needs and best practices to address these threats. Within the POA, States will also be able to consider whether and how the consensus framework should evolve over time.

Non-state stakeholders will be an integral part of the POA process. Almost all capacity building efforts, international or domestic, involve private sector, civil society, academia, and other non-state stakeholders’ activities and expertise. The POA must have modalities for stakeholder participation that are as inclusive as possible to fully leverage these stakeholders’ expertise.

Establishment of a POA

Member States must aim for a seamless transition to the POA in 2025 following the conclusion of the 2021-2025 OEWG. Such a transition must be facilitated by an OEWG final report that reaffirms the POA’s mandate as defined by UNGA resolution 77/37 with the consensus framework as its foundation, articulates its action-oriented structure and working methods, defines priority areas of work, confirms a maximally inclusive approach to stakeholder participation, and defines next steps and detailed timing for the POA’s official launch by 2026.

To fully define the modalities of the POA, an additional preparatory meeting or process may be needed. In addition, if the OEWG fails to reach consensus on a final report, a more comprehensive “international conference” or other preparatory process established through UNGA, will be needed to fulfill the directive outlined in 78/16 to launch the POA by 2026. POA meetings must begin in 2026 to ensure continuity of these important multilateral discussions.

Given the POA’s mandate to address the peace and security dimensions of the use of ICTs, it will naturally be established under the UN First Committee. The UN Office of Disarmament

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9 See General Assembly resolution 78/16, preambular para. 8
10 See General Assembly resolution 77/37, para. 3
Affairs is a logical secretariat for this future mechanism. The POA should function within existing budgetary resources to the greatest extent possible.

Structure

The POA structure should consist of technical working groups that meet three or four times a year, annual plenary meetings, and periodic review conferences. The POA would be supported by a secretariat office within UNODA.

The POA’s technical working groups are the essence of its action-oriented nature - not an optional feature. To make these groups as inclusive as possible, all interested States would be invited to work together in focused groups to develop concrete recommendations that support implementation of the Framework. These recommendations would be included in reports for the consideration of the plenary and, ultimately, the General Assembly.

These working groups must be cross-regional in composition and take a cross-cutting approach to implementing the framework, developing recommendations, assessments, and best practices on issues such as:

- defending critical infrastructure;
- facilitating cooperation between states following a serious cyber incident;
- ways to improve accountability for irresponsible state behavior in cyberspace;
- sharing information on the evolving cyber threat landscape; and
- improving States’ ability to deter and disrupt ICT threats.

Issue-based discussions would facilitate cross-cutting substantive discussion on implementing the framework that breaks out of the traditional silos of threats, norms, international law, and capacity building. In the OEWG, States repeatedly emphasized that these topics bleed into each other and need to be considered holistically. States also agree that capacity building, in particular, cuts across all topics. Prioritizing the conversation about capacity building needs within the implementation working groups will lead to realistic and feasible recommendations and will speed implementation.

The annual plenary meeting should be mandated to assess the progress of the Technical Working Groups, take forward any recommendations from those groups, discuss ongoing and emerging threats, and consider the status of practical initiatives such as CBMs. Plenary may provide guidance for the technical working groups and practical initiatives, as needed.

The Periodic Review Conference should meet every three or four years (replacing the annual plenary during the year of the conference) for all UN Member States to assess the evolving cyber threat landscape, the results of the POA’s initiatives and working groups, update the Framework as necessary, and provide strategic direction and mandates for the POA’s future
plenaries, working groups, and other initiatives. This periodic review of the POA would give States the flexibility to adapt the POA as circumstances evolve.

Each year following the 2026 launch of the POA, UNGA First Committee would affirm any consensus outcomes of the POA’s annual meetings via a resolution or decision. The First Committee would also affirm outcomes of periodic review conferences when they occur.

The POA Secretariat, operated by UNODA, would be mandated to support the administration of the various POA meetings; maintain information-sharing platforms, communication mechanisms, and archives; and administer practical initiatives and projects such as the POC Directory, threat repository, and information-sharing portals.

Capacity Building

Given that countries are at all stages of developing their cyber expertise and skills, the UN has acknowledged that “capacity building is essential for cooperation of States and confidence-building in the field of ICTs.” The United Nations has a key role in convening, coordinating with and highlighting the range of multistakeholder actors who are actively engaged in capacity building on relevant cyber issues as well as implementing specific capacity building programs as directed by Member States.

The POA’s primary capacity building function must be directly tied to states’ national-level efforts to implement the framework. The POA should also facilitate dedicated discussions about what types of capacity building States need to implement the framework to ensure its efforts closely align with States’ range of needs. In other words, it should aim to raise international awareness on the importance of cyber capacity building to support the framework, facilitate coordination and information sharing on available cyber capacity building programs alongside other stakeholders, while also providing guidance and best practices that States could use domestically/nationally to implement the framework.

The United States recognizes that many States still lack an in-depth understanding of the framework and its importance. Many also lack the national-level cybersecurity capacity needed to implement the framework, including domestic authorities and capabilities associated with supporting norms and confidence building measures. There are a range of existing UN and non-UN entities with expertise in areas such as national cybersecurity policies and strategies, cyber incident management and critical infrastructure protection, domestic cybercrime legislation, cybersecurity culture, cybersecurity standards, and donor coordination and matchmaking for international cybersecurity assistance. The POA must not duplicate or supersede such existing efforts. All of these programs – which are largely multistakeholder in nature - enhance states’

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11 Ibid., preambular paragraph 20
national security posture and ultimately enable implementation of the framework, although they are outside of the mandate of the POA.

**Multistakeholder Participation**

States must retain exclusive decision-making authority within the POA. Nonetheless, non-governmental stakeholders, to include civil society, academia, regional and international bodies, and the private sector, play a positive role in multilateral fora by bringing expertise to formal discussions and contributing to capacity building efforts. Relevant non-state stakeholders must have an opportunity to actively participate in and contribute to the POA as observers, without the right to vote. The expertise of non-governmental stakeholders will be particularly important within technical or working groups. These technical working groups will facilitate more in-depth, practical engagement with a range of non-state stakeholders. Stakeholders could also provide periodic reports on their efforts to implement Framework-focused initiatives, including capacity building.

For the POA to be as inclusive as possible of interested stakeholders, including within its subsidiary technical working groups, the modalities should build upon existing gold standards for stakeholder participation, including providing transparency as to States’ objections and a process for evaluating possible exclusions. For example, States can look to the Open-ended Working Group on Ageing as a model. That group’s modalities provide the opportunity for Member States to object to the participation of an organization but require objections to be raised publicly for the awareness of Member States and a subsequent vote to determine whether those organizations to which an objection was raised should be excluded. Organizations to which no Member State objects in the first round are automatically authorized to participate in the formal sessions.\(^{12}\)

In addition to considerations for how stakeholders are accredited to attend POA meetings, modalities should also provide guidance for how accredited stakeholders can contribute to the POA’s discussions in practice. In this area, the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the use of Information and Communications Technologies for Criminal Purposes (AHC), could serve as a model. AHC modalities allow multistakeholder participation to include:

- “[A]ttending any open formal session;”
- “Depending on the time available, making oral statements, at the end of discussions by Member States, on each substantive agenda item. Given limited time available at meetings, multi-stakeholders may consider selecting from among themselves spokespersons, in a balanced and transparent way, taking into account the equitable

\(^{12}\) As articulated in section F of A/AC.278/2011/2.
geographical representation, gender parity and diversity of participating multi-

• “Submitting written materials” with limitations on word count. These submissions are
posted in their original language, on the website of the AHC.¹³

The POA should also leverage existing expertise and ongoing work at the regional level.
Allowing those entities to participate in POA discussions, as stakeholders, would help the UN
level better integrate its work with regional efforts and account for specific regional challenges
and contexts.

¹³ See A/AC.291/6, para. 3.