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**Open Ended Working Group in the Field of Information and
Telecommunications in the Context of International Security**

International Law

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NEW YORK, 8 March 2023

Chair, distinguished delegates,

The Netherlands aligns itself with the statement delivered by the European Union, and I would like to add some additional remarks in a national capacity.

The Netherlands welcomes our focused discussions on international law in accordance with the roadmap as stipulated in the Annual Progress Report of 2022 and on the basis of the guiding questions provided by the Chair.

The Netherlands wishes to again express its support for the strategy paper of Canada and Switzerland on international law.

We can only but reiterate the importance of these focused discussions for further development of common understandings on how international law applies in cyberspace, as part of the normative framework for responsible state behaviour.

That is why we believe it is important to talk about all topics of existing international law that have been elaborated upon in previous consensus reports.

In this light, we would welcome more time to be allotted to these discussions in our next meetings.

To enhance progress in our formal discussions, we would also support holding an intersessional meeting dedicated to international law in a virtual format, in order to ensure the maximum participation of delegations.

Furthermore, we support having dedicated sessions, expert briefings and capacity-building activities on international law. All of this would enrich our focused discussions, while at the same time serving as a transparency and confidence building measure as well as form of capacity building.

Chair,

The Netherlands would like to thank UNIDIR for organizing the cyber stability conference, dedicated to the UN Charter. We look forward to continue our exchanges on the application of the UN Charter in cyberspace here today.

The UN Charter is the backbone of the rules based international order.

Chair,

Please allow me to share some remarks with respect to sovereignty and peaceful settlement of disputes with the aim of reflecting these principles in the next Annual Progress Report. In these remarks, I will also refer to the Netherlands position on how international law applies to cyberspace as articulated in a letter to Parliament in 2019.

[Sovereignty]

The Netherlands considers sovereignty as one of the fundamental principles of international law which is enshrined in the UN Charter.

As reaffirmed in UN GGE reports, sovereignty and international norms and principles that flow from sovereignty apply to the conduct of States in cyberspace.

The Netherlands holds the view that States have exclusive authority over the physical, human and immaterial (logical or software-related) aspects of cyberspace within their territory.

Sovereignty also implies that States may independently pursue foreign 'cyber' policy in the area of cybersecurity.

Accordingly, States have an obligation to respect the sovereignty of other states and to refrain from activities that constitute a violation of other countries' sovereignty.

[Peaceful Settlement]

Chair,

Another key principle of the UN Charter is the peaceful settlement of disputes.

To include this language in our consensus reports was a common effort that was accomplished together with partners like Mexico.

The Netherlands holds that the provisions of the UN Charter on the peaceful settlement of disputes apply equally in relation to State conduct in cyberspace.

This means that, in accordance with the UN Charter, States that are party to any cyber-related dispute, the continuation of which is likely to endanger the maintenance of peace and security, must endeavor to settle such dispute by peaceful means.

Nonetheless, States should also aim to peacefully settle cyber disputes that do not rise to the level of international peace and security.

In terms of how this works in practice, the UN GGE 2021 provided practical recommendations. States should avail themselves of the full range of diplomatic, legal and other consultative options available to them, as well as voluntary mechanisms and other political commitments that allow for the settlement of disagreements and disputes through consultation and other peaceful means.

We believe that, in this way, peaceful settlement of disputes is an essential tool to avoid escalation and prevent conflict. In this regard, confidence building measures provide an essential framework for States to interact with one another.

[Process]

Chair, let me close by reflecting on how we, as the international community, can make collective progress in advancing a common understanding of how international law applies.

States create international law. They've set out the rules for the maintenance of international peace and security in the UN Charter. Since then, States have had to continuously interpret and apply them to new domains.

Yesterday's morning we heard Russia's proposal regarding a new convention, and it's not the first time they have raised this. Such initiatives seem to question the applicability of the UN Charter. The Netherlands considers these to be efforts to create ambiguity around such fundamental principles as

irresponsible, in particular since we have consistently agreed by consensus that existing international law, including the UN Charter, applies to cyberspace.

Instead, we have to continue our efforts to reach common understandings on the interpretation and application of international law in cyberspace. And to do so, it is essential that States articulate their position on this question. Many States have done so, and the 2021 UN GGE made significant progress in this regard by annexing national views on how international law applies. This provides us with a basis to reach common understandings on the normative framework, including international law and to discover whether gaps in our common understandings exist.

The Netherlands therefore encourages other states to also publish their national positions on how international law applies in cyberspace. As has been noted before, capacity building on the basis of States' needs is key in this regard.

Thank you, Chair.

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