TOWARDS A REGULAR INSTITUTIONAL DIALOGUE ON INTERNATIONAL ICT SECURITY

REVIEW OF CURRENT PROPOSALS AND CONSIDERATIONS FOR EFFECTIVE DIALOGUE

PAVEL MRÁŽ

UNITED NATIONS INSTITUTE FOR DISARMAMENT RESEARCH
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WORKING PAPER
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About the Author

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Abbreviations

CBMs  Confidence-building measures
ECOSOC  Economic and Social Council
GGE  Group of Governmental Experts
ICT  Information and communication technology
OEWG  Open-ended Working Group
UNODA  United Nations Office for Disarmament Affairs
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1. INTRODUCTION AND CONTEXT

In 1999, the United Nations General Assembly unanimously expressed concern about the potential misuse of information and communication technologies (ICTs) to undermine international peace and security. Since then, several time-bound multilateral processes, including Groups of Governmental Experts (GGEs) and Open-ended Working Groups (OEWGs), have been convened to address ICT-related issues in the context of international security. These processes have yielded valuable outcomes, including the evolving and cumulative United Nations framework for responsible state behaviour in cyberspace.

With the second OEWG set to conclude its work in 2025, there is a universally recognized need for states’ deliberations on international ICT security to continue in a regular institutional dialogue (thereafter referred to as a “future mechanism” or simply “mechanism” in this paper) established under the auspices of the United Nations. Resolutions such as 75/240, 77/37 and 78/16 as well as consensus reports of the 2019–2021 GGE and both OEWGs have laid the groundwork for further action and deliberations on the establishment of such a mechanism.

Discussions within the OEWG and submissions from states highlight both the significant progress made to date and some of the challenges that lie ahead in establishing a future United Nations mechanism on ICT security. Notably, over the past three years, states’ views have converged around several foundational elements of the future mechanism, including its general purpose, scope, guiding principles and thematic areas. However, a review of existing proposals, written submissions and discussions to date also indicates that there remain some diverging views among states. In particular, states are yet to build consensus around the precise structure, modalities and programmatic priorities of this mechanism. It is crucial to understand these divergences before further advances can be made in states’ deliberations on establishing a permanent mechanism by consensus after the conclusion of the current OEWG.

This framing paper aims to provide an overview of key areas pertinent to the establishment of a future United Nations mechanism on ICT security. It covers the purpose and objectives (in Section 2), guiding principles (Section 3), scope and function (Section 4), structure (Section 5), and modalities (Section 6) of this mechanism. The paper draws on relevant General Assembly resolutions, consensus reports of the past OEWGs and GGEs, reports of the Secretary-General, and the views and submissions of states. It is hoped that by identifying both areas where states’ views converge and areas where they diverge on the subject, this framing paper can facilitate discussions on potential pathways towards a consensus establishment of a fit-for-purpose, single-track and flexible mechanism that fulfils states’ aspirations and remains effective over time.

1 See, for example, OEWG 2021–2025, 2nd Annual Progress Report, A/78/265, 1 August 2023, https://undocs.org/A/78/265, paragraphs 55, 56, and 57.
2. PURPOSE AND OBJECTIVES

For the purposes of this paper, “objectives” refer to the broader goals that states hope to achieve via a future permanent mechanism. These can include advancing the implementation and further development of the framework or the development and operationalization of additional confidence-building measures. Relatedly, “functions” in this paper refer to specific programmatic activities that would be undertaken within the mechanism to support the attainment of agreed objectives. To advance implementation, those functions could include voluntary reporting, mapping challenges faced by states when implementing the framework, identifying good practices and solutions to support national implementation efforts, conducting framework gap analysis, or exchanging lessons learned.

Over the years, views have progressively converged on the purpose of the future mechanism, which should act as a permanent intergovernmental forum for United Nations action on international aspects of ICT security. The primary objective of a mechanism would be to promote international peace, security and stability in the ICT environment by advancing the evolving and cumulative framework for responsible state behaviour in cyberspace in an action-oriented manner. Latest proposals submitted by groups of states suggest that, in addition to a deliberative role, the future mechanism would also undertake decision-making, coordination and facilitation.

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2 “Other principles identified by States in their submissions included, inter alia, permanence, . . . . States noted that the permanence of a programme of action structure would provide for institutional stability and save the General Assembly time and resources in negotiating new mandates.” General Assembly, “Programme of Action to Advance Responsible State Behaviour in the Use of Information and Communications Technologies in the Context of International Security”, Report of the Secretary-General, A/78/76, 18 April 2023, https://undocs.org/A/78/76, paragraph 16.


4 “The aim of the future mechanism would be to continue to promote an open, secure, stable, accessible, peaceful and interoperable ICT environment”. OEWG 2021–2025, A/78/265, paragraph 55(b).

5 “The future mechanism would take as the foundation of its work the consensus agreements on the framework of responsible State behaviour in the use of ICTs from previous OEWG and GGE reports,” OEWG 2021–2025, A/78/265, paragraph 55(c).


8 “Some States expressed the desire for regular dialogue to prioritize implementation of existing commitments and recommendations, including developing guidance to support and monitor their implementation; coordinating and strengthening the effectiveness of capacity-building; and identifying and exchanging good practices. Other States expressed the desire for regular dialogue to prioritize the further development of existing commitments and elaboration of additional commitments, including the negotiation of a legally binding instrument and the institutional structures to support it.” OEWG 2019–2021, Third Substantive Session, Chair’s Summary, A/AC.290/2021/CRP.3, 10 March 2021, https://front.un-arm.org/wp-content/uploads/2021/03/Chair’s-Summary-A-AC.290-2021-CRP.3-technical-reissue.pdf, paragraph 40.
Several objectives have been proposed for the future mechanism, including:

- Coordination of capacity-building
- Advancing the implementation and further development of the framework for responsible state behaviour in cyberspace
- Developing and operationalizing additional confidence-building measures (CBMs)
- Advancing discussions on international law
- Negotiating additional commitments

While these objectives are identified in a number of submissions, states may have diverging views on their prioritization and appropriate sequencing.

Although there has been significant convergence in states’ views on the broad purpose and objective of the future mechanism over the past few years, written submissions indicate several areas where consensus is yet to emerge. These include the mechanism’s name, primary goals and specific objectives, and the potential prioritization and sequencing of its programmatic activities (see Table 2). Specifically, several names have been proposed, including the “Programme of Action” and the “Permanent Decision-Making OEWG” and combinations thereof.

### Table 2. Purpose and Objectives of a Future Mechanism: Areas of Convergence and Divergence

<table>
<thead>
<tr>
<th>Convergence</th>
<th>Divergence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advancing responsible state behaviour in the use of ICTs in an action-oriented manner</td>
<td>The primary goals and specific objectives to be achieved</td>
</tr>
<tr>
<td>A permanent forum for United Nations discussions on international ICT security</td>
<td>The name</td>
</tr>
<tr>
<td>Strengthening international security and stability in the ICT environment</td>
<td>The specific programmatic priorities and their sequencing</td>
</tr>
</tbody>
</table>

In United Nations practice, subsidiary bodies of the General Assembly may take on many forms and names. Such bodies may include Commissions, Committees, Councils, Programmes of Actions,

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9 “PoA could leverage existing and potential capacity-building efforts, increase their visibility and improve their coordination”. OEWG 2021–2025, Proposal by a cross-regional group of states, p. 2.

10 “States stated that the programme of action could offer an inclusive framework for further discussion on applicability of international law to the use of information and communications technologies by States and deepen common understandings on this topic, including through a dedicated workstream.” Report of the Secretary-General, A/78/76, paragraph 29.

11 For example, the 2nd Annual Progress Report of the OEWG 2021–2025 outlines the purpose and objective of the future mechanism as an “open-ended action-oriented permanent mechanism . . . to further develop and implement the cumulative and evolving framework for responsible State behaviour in the use of ICTs and to strengthen the capacity of all States.” OEWG 2021–2025, A/78/265, paragraph 55.


13 OEWG 2021–2025, Concept paper submitted by a group of states.

Open-ended Working Groups and Working Groups, Forums, Open-ended Informal Consultative Processes and Task Forces pursuing various objectives.\textsuperscript{15} Historically, all of the above bodies have been associated with distinct functions within the United Nations system. States may therefore wish to further discuss and define specific functions of this mechanism before deciding on the most appropriate name. Furthermore, the broadly shared aspiration for an action-oriented mechanism may require further discussions among states in order to define in greater detail its expected outcomes as well as specific programmatic activities that will be undertaken to arrive at such outcomes.

In terms of the prioritization and sequencing of individual objectives, states may consider where they wish to pursue multiple programmatic priorities simultaneously and where a sequential approach – one where programmatic activities flow from and organically build on one another – is more desirable. Identifying specific objectives – across all pillars of the framework consisting of norms, international law,\textsuperscript{16} CBMs and capacity-building – and means of achieving them may provide a useful foundation for states’ consideration of other aspects of the mechanism. This would include questions such as how to design a fit-for-purpose institutional architecture and specific modalities to ensure that the form of the future mechanism follows its desired function.

3. GUIDING PRINCIPLES

States’ discussions on the establishment of the future mechanism have converged around several guiding principles deemed essential for its effective functioning.\textsuperscript{17} These include inclusivity, flexibility, transparency, sustainability, complementarity and non-duplication.\textsuperscript{18} These principles have been frequently invoked as foundational values that should underpin the design, operation and decision-making processes of the mechanism. Specifically, inclusivity is often cited as the openness of a mechanism to all Member States of the United Nations and all relevant stakeholders.\textsuperscript{19} While this principle is not widely contested, states may wish to consider how to enshrine this aspiration in the modalities of the mechanism (see Section 6 for details). Flexibility is understood to reflect the

\textsuperscript{15} The 2nd Annual Progress Report of the OEWG 2021–2025 acknowledges that several names were proposed: “Further to the recommendation in the 2021 OEWG report and in the first [Annual Progress Report] of the OEWG, States deepened discussions on the proposal to establish a Programme of Action (PoA) to advance responsible State behaviour in the use of ICTs in the context of international security. Other proposals were made for regular institutional dialogue, including a proposal for a future group, commission, committee or conference under the auspices of the United Nations.” OEWG 2021–2025, A/78/265, paragraph 52(c).

\textsuperscript{16} For example, a working paper by a group of states proposes that a future RID could include “sharing national views, including regional, sub-regional as well as national statements on how international law applies in the use of ICTs, dedicated meetings, expert briefings, scenario-based discussions, and capacity building on international law via dedicated thematic working groups and/or technical meetings”. OEWG 2021–2025, “Programme of Action (PoA) and International Law”, Working Paper by Chile, Estonia, Fiji, Japan and the United Kingdom, 14 May 2024, https://docs-library.unoda.org/Open-Ended-Working-Group_on-Information-and-Communication-Technologies_-_Programme_of_Action_and_International_Law_OEWG_Working_Paper_May_2024.pdf, p. 2.

\textsuperscript{17} “It would be an open, inclusive, transparent, sustainable and flexible process which would be able to evolve in accordance with States’ needs and as well as in accordance with developments in the ICT environment.” OEWG 2021–2025, A/78/265, paragraph 55(d).


\textsuperscript{19} For example, according to a concept paper, it may be “useful to enable interaction of the permanent OEWG with relevant regional organizations and associations”. OEWG 2021–2025, Concept paper submitted by a group of states, p. 3.
shared aspiration of states to allow the permanent mechanism to evolve over time.\textsuperscript{20} **Complementarity** is often cited in the context of ensuring that the mechanism would be a single-track process,\textsuperscript{21} would not duplicate existing efforts and would act in coordination with other relevant United Nations processes.\textsuperscript{22} Finally, **sustainability** is also widely supported by states as a foundational principle, although it remains relatively undefined.\textsuperscript{23} Further discussions concerning this principle may be needed, particularly as the number of meetings, review cycles, working groups and programmatic activities proposed for this mechanism would likely require substantial financial support.

While the aforementioned principles are not contested, **states may have diverging views on how they would be operationalized in practice** (see Table 3 for a summary). Additionally, states may wish to clarify the extent and the manner in which the mechanism could accommodate additional principles mentioned across various proposals, such as sovereignty, non-interference and peaceful settlement of disputes.\textsuperscript{24} Similarly, states may wish to discuss how best to mainstream the capacity-building principles adopted by the final report of the 2019–2021 OEWG, including gender-sensitivity and human rights, in the work of the future mechanism.\textsuperscript{25}

<table>
<thead>
<tr>
<th>Convergence</th>
<th>Divergence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principles of inclusivity, flexibility, complementarity, and sustainability</td>
<td>How these principles would be operationalized in practice</td>
</tr>
<tr>
<td>Promotion of trust and cooperation among states</td>
<td>Substantive principles the mechanism could support, such as sovereignty, non-interference or human rights</td>
</tr>
</tbody>
</table>

Given the lack of clarity around these foundational principles, states may also wish to consider how the principles of inclusivity, flexibility, transparency, sustainability, complementarity and non-duplication would be translated into concrete modalities of the mechanism (which are addressed in Section 6). For example, in terms of inclusivity, states may consider how to define

\textsuperscript{20} “The mechanism should be permanent and flexible, fit to adapt its work in the face of new technological developments and emerging threats.” OEWG 2021–2025, *Submission by Brazil*, paragraph 5.

\textsuperscript{21} “It would be a single-track, State-led, permanent mechanism under the auspices of the United Nations.” OEWG 2021–2025, A/78/265, paragraph 55(a).

\textsuperscript{22} For example, a concept paper calls for “avoiding duplication of international efforts aimed at ensuring security of and in the use of ICTs within different negotiating platforms”; and a working paper states that “the PoA would act as complementary and coordinated with other relevant UN processes [and] is not intended, nor designed to duplicate or replace any other negotiation format.” OEWG 2021–2025, *Concept paper submitted by a group of states*, p. 2; OEWG 2021–2025, “Working Paper for a Programme of Action (PoA)”, p. 4.

\textsuperscript{23} “Regarding the dedicated trust fund, several States reflected on examples provided by existing mechanisms under the United Nations in the area of arms control, such as the United Nations Trust Facility Supporting Cooperation on Arms Regulation and the Saving Lives Entity fund. States noted other existing funding structures such as the World Bank Cybersecurity Multi-Donor Trust Fund and those at the regional and subregional levels.” Report of the Secretary-General, A/78/76, paragraph 20.

\textsuperscript{24} For example, a concept paper states that “the work of the future permanent OEWG should be based on the following principles: . . . compliance with the principles of the UN Charter (sovereign equality of States, non-use of force or threat of force, peaceful settlement of international disputes).” OEWG 2021–2025, *Concept paper submitted by a group of states*, p. 2.

\textsuperscript{25} “Many States emphasized that capacity-building should represent a central programme of action function. A number of States recalled the consensus guidelines for capacity-building agreed in the report of the Open-ended Working Group on Developments in the Field of Information and Telecommunications in the Context of International Security.” Report of the Secretary-General, A/78/76, paragraph 31.
‘relevant stakeholders’ (e.g., by elaborating guidelines) and how to encourage participation of capital-based experts from developing countries (e.g., through a voluntarily funded sponsorship programme). States may also wish to discuss and clarify the process through which the framework would evolve, and whether such evolution would require further approval by the General Assembly. Finally, while the principle of complementarity and non-duplication is widely accepted, practical questions arise as to how such coordination could take place and which United Nations processes and organizations would be most relevant in this regard.

4. SCOPE AND FUNCTION

Related to the convergence around its guiding principles, there is broad consensus among states on the scope and some functions of the future mechanism. In terms of scope, states broadly agree that the mechanism should focus on advancing the framework across its pillars (See Table 4).

| Table 4. Summary of Proposals Covering the Scope and Main Functions of a Future Mechanism |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| A number of written submissions reference the following areas in relation to the proposed scope of the future mechanism: |
| • Identifying ICT threats27 | • Supporting the implementation of the existing framework28 across norms, international law29 and CBMs30 |
| • Strengthening capacity-building through practical action31 | |

26 “States in a position to do so to continue to consider establishing or supporting sponsorship programmes and other mechanisms to ensure broad participation in the relevant UN processes.” OEWG 2021–2025, A/78/265, paragraph 36.
28 For example, a concept paper references “practical implementation of the agreements reached by the OEWG 2021–2025”; and a cross-regional group proposes that the mechanism would “be rooted in the implementation of the framework”. OEWG 2021–2025, Concept paper submitted by a group of states, p. 1; OEWG 2021–2025, Proposal by a cross-regional group of states, p. 2.
29 For example, a concept paper references “development of a common understanding of how international law applies in the use of ICTs and how the existing norms could be adapted to the specifics of information space”; and a working paper proposes dedicated meetings on international law. OEWG 2021–2025, Concept paper submitted by a group of states, p. 1; OEWG 2021–2025, “Programme of Action (PoA) and International Law.”
30 For example, a concept paper references “development and implementation of confidence-building measures and mechanisms for practical cooperation between States, including through established channels of interaction between authorized agencies/bodies and the global intergovernmental directory of points of contact”; a cross-regional group references referencing “practical initiatives and confidence-building measures to support the implementation”; and the OEWG Chair proposed confidence-building measures [and] further development and operationalization of the Global Points of Contact Directory” as a part of the future mechanism’s scope. OEWG 2021–2025, Concept paper submitted by a group of states, p. 1; OEWG 2021–2025, Proposal by a cross-regional group of states, p. 3; OEWG 2021–2025, “Draft Elements”, paragraph 8.
31 “A number of States underscored that capacity-building, including financial and technical assistance, should be a fundamental component of the scope of the programme of action and should support States’ ability to implement their commitments.” Report of the Secretary-General, A/78/76, paragraph 10.
Further developing the cumulative and evolving framework, where appropriate

Additionally, several concrete functions of the mechanism have been proposed. These include:

- Mapping specific needs and challenges faced by states when implementing the framework
- Identifying good practices and solutions to support national implementation efforts
- Conducting voluntary reporting and framework gap analysis across norms and international law
- Exchanging lessons learned
- Elaborating threat-mitigation and incident-response measures
- Establishing international attribution mechanism
- Strengthening communication channels and elaborating procedures for de-escalation in the event of ICT incidents
- Mobilizing and pairing available resources with requests for capacity-building support
- Negotiating additional commitments to increase international cooperation on ICT security

Many proposals also assume that the mechanism would report back to the General Assembly on its work at regular intervals in line with the established practice of past OEWGs and GGEs. While proposals reference most, if not all, of the above functions in some form or another, written submissions tend to prioritize different functions, such as mapping implementation challenges versus negotiating additional legally binding commitments. Proposals also assign varying levels of importance to different pillars of the framework: that is, norms, CBMs, capacity-building and international law. This varied emphasis also translates into diverging views as to the appropriate

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32 For example, a concept paper references “further development of legally binding rules, norms and principles of responsible behavior of States”, and a cross-regional group calls for a “review of the normative framework for responsible State behavior, including its further development if necessary” within the future mechanism. OEWG 2021–2025, Concept paper submitted by a group of states, p. 1; OEWG 2021–2025, Proposal by a cross-regional group of states, p. 1.
33 “Precise mapping of the needs and challenges States face through progress reports”. OEWG 2021–2025, Proposal by a cross-regional group of states, p. 2.
35 “Reporting best practices, identifying challenges or conducting practical initiatives will contribute to inform needs-based and strategic decision-making by Member States at RevCons and plenary discussions”. OEWG 2021–2025, Proposal by a cross-regional group of states, p. 2.
36 “States could be given opportunities for voluntary national reporting of their efforts to implement the cumulative and evolving framework for responsible State behaviour in the use of ICTs.” OEWG 2021–2025, “Draft Elements”, paragraph 16.
37“A number of States referenced the need for the programme of action to identify gaps in the existing normative framework and consider actionable recommendations to support implementation efforts.” Report of the Secretary-General, A/78/76, paragraph 28.
38 “The PoA could leverage existing and potential capacity-building efforts, increase their visibility and improve their coordination, as well as support the mobilization of resources and assist with pairing available resources with requests for capacity-building support and technical assistance.” OEWG 2021–2025, Proposal by a cross-regional group of states, p. 2.
39 For example, a concept paper proposes “further development of legally binding rules, norms and principles of responsible behavior of States and creation of effective mechanisms for their implementation, as elements of a future universal treaty on ensuring international information security”; and a cross-regional group states that “the PoA would also provide a venue to consider the need for additional voluntary, non-binding norms or additional legally binding obligations, as necessary.” OEWG 2021–2025, Concept paper submitted by a group of states, p. 1; OEWG 2021–2025, Proposal by a cross-regional group of states, p. 2.
40 “The normative role should continue to be performed by the UN General Assembly – as it has up to today, by adopting the reports of the GGEs and of the OEWGs.” OEWG 2021–2025, Submission by Brazil, paragraph 11.
sequencing of various activities and the prioritization of specific tasks undertaken within the mechanism (see Table 5 for a summary).

**Table 5. Scope and function of a future mechanism: areas of convergence and divergence**

<table>
<thead>
<tr>
<th>Convergence</th>
<th>Divergence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identifying challenges related to upholding and evolving the framework and proposing solutions, including via General Assembly reporting requirements</td>
<td>The specific tasks and activities undertaken within the mechanism</td>
</tr>
<tr>
<td>Providing practical support for framework implementation and capacity-building efforts</td>
<td>The mechanism’s role in implementation and development of the framework across norms and international law</td>
</tr>
</tbody>
</table>

To bridge these divergences, states may wish to identify how many priority activities they wish to undertake via this mechanism. For example, designing a mechanism with a broad scope and with a structure that decouples various thematic areas and programmatic activities from one another (e.g., by establishing dedicated thematic committees and programmatic working groups for each activity) may be desirable if states wish to tackle many activities that require participation of capital-level experts with different types of expertise. Such an institutional architecture may also be useful to safeguard against institutional gridlock by ensuring that a lack of progress in one area does not result in a permanent deadlock of the mechanism.

Alternatively, if states wish to undertake fewer activities that link a large number of issues, then they may choose to establish a mechanism with a narrower and more focused scope with a streamlined structure and a narrow set of objectives. Such mechanisms can be permanent, but more frequently they have a time-limited mandate and cease to exist once the set objectives are achieved. A third, hybrid option might involve establishing a permanent mechanism with a broad scope alongside dedicated time-bound subsidiary organs mandated to accomplish specific tasks.42

To build consensus around which option may be more appropriate, states may wish to first identify specific functions of the mechanism and then discuss which should be undertaken on a permanent basis and which could be more appropriately achieved in a time-bound manner. States may also wish to consider the appropriate sequencing of the proposed programmatic activities and the extent to which these activities should be linked, decoupled or built upon one another within the mechanism. These considerations may also inform states’ preferences for the structure of the future mechanism, which is addressed in the next section.

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42 The possibility of merging existing proposals has been noted by states. For example, the Chair’s summary of the third session of the OEWG 2021–2025 notes that “it was suggested that different formats could be complementary or could be merged in order to capitalize on the unique features of each and reduce duplication of efforts.” OEWG 2019–2021, A/AC.290/2021/CRP.3, paragraph 43.
5. STRUCTURE

There is an emerging consensus around several elements of the institutional structure of the future mechanism. First, states broadly agree on the need to continue plenary discussions in line with the existing OEWG practice. Additionally, the possibility of establishing subsidiary groups to facilitate technical exchanges and in-depth consideration of specific programmatic issues (e.g., capacity-building, international law or critical infrastructure protection) has also been broadly acknowledged. Various proposals also identify the United Nations Office for Disarmament Affairs (UNODA) as the appropriate Secretariat for this mechanism. Many proposals also reference the need for periodic high-level review meetings to examine the state of implementation, assess the evolving threat landscape, identify priority actions and provide political guidance on a way forward.

The remaining divergences mostly relate to the frequency of meetings, the number of layers within the mechanism (i.e., a two- or a three-tier structure), its location and the level of detail regarding its leadership (see Table 6). Additionally, while all contributions propose a review process, there are some divergences as to how often such reviews should occur. For example, some proposals include a three-tier structure composed of review conferences held every 4–6 years, biannual plenaries and intersessionally convened technical working groups. In contrast, other proposals, while also calling for biannual plenaries and the potential establishment of subsidiary bodies, suggest progress reports could be adopted every two years. While some proposals do not elaborate in detail on the leadership element of the future mechanism, other proposals include more details,

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43 For example, a concept paper proposes holding “hold two substantive sessions per year at the UN Headquarters in New York”; a cross-regional group references “open-ended discussions similar to the format of other UN forums, like the current OEWG on ICT security”; and the OEWG Chair proposed “two substantive sessions to be convened per year, with each substantive session lasting for one week”. OEWG 2021–2025, Proposal by a cross-regional group of states, p. 2; OEWG 2021–2025, Proposal by a cross-regional group of states, p. 2; OEWG 2021–2025, “Draft Elements”, paragraph 9.


45 For example, a cross-regional group references topics for working groups such as “critical infrastructure protection, cyber incident response and cooperation among States, and cyber threats assessments”. OEWG 2021–2025, Proposal by a cross-regional group of states, footnote 4.

46 For example, a concept paper suggests “UN Member States may decide to create subsidiary subgroups for more detailed, in-depth consideration of specific aspects of the mandate”; a cross-regional group proposes “Open-ended technical meetings and/or implementation working groups on specific areas could be mandated by Member States in plenary discussions”; and a Report of the Secretary-General recalls that “a number of States called for the creation of technical workstreams, working groups on specific topics and other forms of intersessional consultative meetings”. OEWG 2021–2025, Concept paper submitted by a group of states, p. 3; OEWG 2021–2025, Proposal by a cross-regional group of states, p. 2; and Report of the Secretary-General, A/78/76, paragraph 37.

47 “A number of States noted that the Office for Disarmament Affairs would be the most appropriate entity to serve as secretariat for the programme of action.” Report of the Secretary-General, A/78/76, paragraph 39.

48 For example, a cross-regional group proposes review conferences to “(i) assess the evolving cyber threat landscape, the results of the PoA’s initiatives and meetings; (ii) update the Framework as necessary; (iii) provide strategic direction and mandates for the PoA’s future plenaries, technical meetings, and other initiatives, including to develop new practical initiatives”; and the OEWG Chair proposed “the effective operation of the open-ended action-oriented permanent mechanism to be reviewed every four years”. OEWG 2021–2025, Proposal by a cross-regional group of states, p. 2; OEWG 2021–2025, “Draft Elements”, paragraph 21.

49 “Some supported annual meetings, while others noted the possibility of biennial meetings. Other States expressed flexibility regarding the frequency of such meetings. With regard to location, several States supported the holding of follow-up meetings in New York, with a few noting the possibility of holding meetings at alternative locations such as Geneva.” Report of the Secretary-General, A/78/76, paragraph 35.

50 “A number of States reflected on the possibility of review conferences. Proposed frequencies ranged from every third or fourth year to every six years.” Report of the Secretary-General, A/78/76, paragraph 36.

51 See OEWG 2021–2025, Proposal by a cross-regional group of states.

52 See OEWG 2021–2025, Concept paper submitted by a group of states.
such as the establishment of a regionally representative Bureau led by a Chair with a two-year mandate.\textsuperscript{53}

**Table 6. Structure of a future mechanism: areas of convergence and divergence**

<table>
<thead>
<tr>
<th>Convergence</th>
<th>Divergence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Biannual plenaries and subsidiary groups for specific thematic areas</td>
<td>The number of institutional layers within the mechanism</td>
</tr>
<tr>
<td>UNODA acting as a Secretariat</td>
<td>The level of detail regarding intergovernmental leadership and the process of its appointment</td>
</tr>
<tr>
<td>Periodic high-level meetings to review the framework and decide on next steps</td>
<td>The scope, nature and frequency of reviews conducted within the mechanism</td>
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The resolution of these outstanding issues relates to states’ expectations regarding the function of the future mechanism. For example, if states wish to allocate more time and resources to high-level political discussions on international aspects of ICT security, they may opt for fewer institutional layers, more plenary meetings and frequently negotiated progress reports. Alternatively, if states prefer to advance discussions on ICT security at the technical level, it may then be desirable to increase the number of institutional layers as well as the number of intersessional study groups where dedicated subject-matter experts from capitals can participate,\textsuperscript{54} while increasing the time between high-level political reviews.

**6. Modalities**

Unless states otherwise specify, as a subsidiary body of the General Assembly,\textsuperscript{55} the General Assembly’s Rules of Procedure would govern all operational and procedural aspects of the future mechanism. These rules would notably regulate the mechanism’s membership (i.e., opening it to all Member States), decision-making (i.e., simple majority voting) and modalities for stakeholder participation (i.e., non-governmental organizations accredited to the Economic and Social Council (ECOSOC)). However, as highlighted above, states have converged around key principles for this mechanism, including its “inclusivity” and “consensus-driven” nature (see Table 7 for a summary).\textsuperscript{56}

Operationalizing these principles in practice would require adjustment of the mechanism’s modalities. This could be done in the General Assembly resolution that establishes the mechanism, in a follow-up resolution on modalities or via a dedicated preparatory process.

\textsuperscript{53} For example, a concept paper proposes “a bureau composed by the chair, two vice-chairs, a rapporteur and, if needed, by chairs of subgroups (in the status of vice-chairs) . . . approved by consensus of States once in two years basing on fair geographic representation and rotation among regional groups”; and the OEWG Chair proposed “the Chair of the permanent mechanism to be appointed for a period of two years, on the basis of equitable geographical representation”. OEWG 2021–2025, Concept paper submitted by a group of states, p. 3; OEWG 2021–2025, “Draft Elements”, paragraph 18(c).

\textsuperscript{54} “The view was expressed that technical working groups could be convened in a hybrid or virtual format to allow for the broadest participation of experts. Suggested topics of focus for potential working groups included applicability of international law, implementation of specific norms of responsible State behaviour and the elaboration of new norms, rules and principles, including legally binding obligations or instruments, as appropriate. It was also suggested that the working groups could address thematic topics such as critical infrastructure protection.” Report of the Secretary-General, A/78/76, paragraph 37.

\textsuperscript{55} “It would be a single-track, State-led, permanent mechanism under the auspices of the United Nations, reporting to the First Committee of the United Nations General Assembly.” OEWG 2021–2025, A/78/265, paragraph 36.

\textsuperscript{56} “There is broad agreement that consensus decision-making and inclusivity, in particular, are critical elements of regular institutional dialogue in this area.” Report of the Secretary-General, A/78/76, paragraph 46.
In terms of inclusivity, states have converged around the need for the future mechanism to remain open to all United Nations Member States and to engage with civil society, the private sector and academia. While these elements are not contested, there is an ongoing debate as to the most appropriate modality for stakeholder participation to balance the principle of inclusivity with the need to safeguard the intergovernmental decision-making of the mechanism. Another element that has been suggested to increase the inclusiveness of the mechanism is a potential sponsorship travel fund composed of voluntary contributions to support the attendance at relevant meetings by capital-based experts from developing countries.

In terms of decision-making, the preference for a consensus-driven mechanism enjoys universal support. However, it remains to be clarified whether states prefer the "rule of consensus" as the only means of making all procedural and substantive decisions, or whether the "principle of consensus" implies potential fallback options (e.g., simple or two-thirds majority voting) being written into the mechanism. Such fallback options are sometimes used to guard against institutional paralysis by providing alternative means to resolve potential deadlocks over procedural issues (e.g., election of officers) or even issues of substance (e.g., framework review). Furthermore, states may also wish to clarify whether the same decision-making modality would also apply to the process of its establishment when, for example, a dedicated preparatory conference is convened to advance the mechanism's establishment.

<table>
<thead>
<tr>
<th>Table 7. Modalities of a future mechanism: areas of convergence and divergence</th>
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<tr>
<td><strong>Convergence</strong></td>
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<tr>
<td>Strong preference for a consensus-based decision-making modality</td>
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<tr>
<td>An inclusive mechanism open to all United Nations Member States</td>
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<tr>
<td>Engagement with relevant stakeholders, where appropriate</td>
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57 “Other interested parties, including businesses, non-governmental organizations and academia could contribute to any future regular institutional dialogue, as appropriate.” OEWG 2021–2025, A/78/265, paragraph 57.

58 “Many States noted the value of inclusive participation of non-governmental stakeholders, including civil society, the private sector, academia and the technical community, and called for specific modalities for their participation.” Report of the Secretary-General, A/78/76, paragraph 40.

59 For example, a concept paper proposes “participation of non-state actors (non-governmental organizations, businesses and academia) in the work of the permanent OEWG should be strictly consultative and informal [where] accredited (agreed by States) non-state actors should be allowed to participate in the official events as observers”; and a cross-regional group states that “the PoA would enable engagement and collaboration with relevant stakeholders”. OEWG 2021–2025, Concept paper submitted by a group of states, p. 3; OEWG 2021–2025, Proposal by a cross-regional group of states, p. 3.

60 “States in a position to do so to continue to consider establishing or supporting sponsorship programmes and other mechanisms to ensure broad participation in the relevant UN processes.” OEWG 2021–2025, A/78/265, paragraph 36.

61 “States recognized the importance of the principle of consensus regarding both the establishment of the future mechanism itself as well as the decision-making processes of the mechanism.” OEWG 2021–2025, A/78/265, paragraph 56.

62 For example, Brazil noted the need for “modalities/methods of work [to] avoid stagnation of the process (e.g., possibility of [use of the consensus rule as] a de facto veto power), as experienced, for example, by the Programme of Action on small arms and light weapons for a long period.” OEWG 2021–2025, Submission by Brazil, paragraphs 5, 19.

63 “Several States called for the international conference to provide for the participation of stakeholders and make decisions on the basis of consensus, at least on matters of substance.” Report of the Secretary-General, A/78/76, paragraph 25.
While all current proposals acknowledge the potential role of stakeholders, there are diverging views on the extent of their involvement and the nature of their participation in the mechanism’s activities.\textsuperscript{64} While no proposal assumes direct stakeholder participation in decision-making, states envision different degrees of engagement and consultations with relevant stakeholders, such as the private sector, academia and civil society.\textsuperscript{65} To build further convergence around this issue, states may wish to clarify which stakeholders are relevant and where in the process and structure of the mechanism such stakeholders can most meaningfully support state deliberations (e.g., study groups, plenaries, review process, etc.). This would allow states to design a fit-for-purpose modality centred around their needs (See Table 8 for non-exhaustive list of options).

**Table 8. Non-exhaustive list of options for stakeholder inclusion and engagement**

To facilitate engagement with and the inclusion of relevant stakeholders, states may wish to seek inspiration in the modalities and existing practices of other international organizations and processes. This could include:

- **Adopting clear and objectively applied guidelines** and criteria for the admission of stakeholders
- **Delegating the responsibility for stakeholder accreditation** to a state where the stakeholder entity is domiciled or registered
- **Adopting a gradual approach to stakeholder inclusion** starting with more limited involvement in initial stages and gradually expanding participation over time
- **Inviting stakeholders on an ad hoc basis as briefers** under the discretionary authority of the Chair and working group Vice Chairs
- **Designing flexible modalities for stakeholder engagement** by establishing multiple channels for inputs, such as advisory groups, task forces and thematic consultations with a wide range of stakeholders.

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\textsuperscript{64} For example, a concept paper states that “participation of non-state actors (non-governmental organizations, businesses and academia) in the work of the permanent OEWG should be strictly consultative and informal – for example, within intersessional meetings held once a year.” OEWG 2021–2025, Concept paper submitted by a group of states, p. 3.

\textsuperscript{65} For example, a cross-regional group states that “the PoA would enable engagement and collaboration with relevant stakeholders”. OEWG 2021–2025, Proposal by a cross-regional group of states, p. 3.
7. CONCLUSION

In the light of the rapid advancement of information and communication technologies and the accompanying challenges to international stability and security, the establishment of a permanent United Nations mechanism on ICT security is both timely and essential. The deliberations in the United Nations and the proposals to date highlight a significant convergence of views on key foundational elements, many of which are captured in the OEWG Chair’s discussion paper on draft elements for the permanent mechanism on ICT security in the context of international security.66 These elements include consensus on the need for a permanent, consensus-driven and action-oriented mechanism. The guiding principles of inclusivity, flexibility, complementarity and sustainability are also widely accepted, providing a strong foundation for institutional design and fit-for-purpose modalities of this future mechanism.

Furthermore, the latest proposals consistently emphasize the importance of practical cooperation, engaging relevant stakeholders and ensuring transparent processes. Additionally, they stress the need to align the work of the future mechanism with existing multilateral agreements on international law and norms on state use of ICT while working towards both the implementation and further development of the framework, where appropriate, to respond to the evolving ICT threat landscape.

Most divergences centre around issues such as the name of the mechanism and which programmatic activities should be prioritized over others, rather than around the mechanism’s structural design. The remaining differences – particularly those regarding structure, modalities, and prioritization among and sequencing of the proposed programmatic priorities – underscore the importance of continued dialogue of states’ expectations and needs in relation to the future mechanism. Key considerations include the frequency and scope of review meetings, the optimal number of institutional layers and thematic working groups, and modalities for stakeholder participation and for decision-making. Addressing these issues while taking into account the desired function of the mechanism will ensure that it can deliver on states’ expectations and remains relevant in the face of the evolving ICT threat landscape.

Ultimately, the success and long-term viability of a permanent United Nations mechanism on ICT security will depend on finding a balance between high-level political discussions and technical exchanges. By building on the areas of convergence and by including, by design, discussions on areas of divergence in the new mechanism, states can establish a sustainable mechanism capable of enhancing international cooperation and strengthening global ICT security over time while minimizing the risk of institutional gridlocks. This collective effort will not only advance responsible state behaviour in cyberspace but will also contribute to a more open, peaceful, secure and stable ICT environment for all.

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REFERENCES


