Chair's Summary

Informal consultative meeting of the Group of Governmental Experts (GGE) on Advancing responsible State behaviour in cyberspace in the context of international security

5-6 December 2019

The first of two informative consultative meetings of the GGE with UN Member States was held at the United Nations Headquarters in New York on 5-6 December 2019. In accordance with resolution A/73/266, the objective of the consultations was to provide all Member States the opportunity to engage in interactive discussions and share their views on issues under the GGE's mandate.

This report is a summary of the discussions and views shared during the consultative meeting. It is organized around the sequencing of the discussions during the consultative meeting: i) an overview of discussions; ii) regional perspectives; iii) existing and emerging threats; iv) international law and norms; and v) CBMs and capacity building. It closes with a summary of the Chair's own take-aways from the consultative meeting.

The meeting was opened by the High Representative for Disarmament Affairs, Ms. Izumi Nakamitsu and remarks by the Chair of the Group of Governmental Experts, Ambassador Guilherme Patriota of Brazil, who provided a summary of the five consultative meetings carried out to date with regional organizations. These opening remarks were followed by presentations by Ms. Kerstin Vignard and Dr. Camino Kavanagh, members of the UNIDIR support team, on the work and recommendations of past GGEs.[1]

Overview of discussions

Discussions over the two days demonstrated significant interest on the part of Member States in the work of the Group of Governmental Experts. There was broad agreement in the room that the cumulative outcomes of the previous GGE reports should serve as a basis for discussions in both the GGE and the OEWG. The new GGE should focus on moving beyond what was already agreed in 2015. Delegates noted that the normative agreements and recommendations of the 2015 report should be protected and respected, given their relevance to the maintenance of international peace and security and the prevention of conflict.

A number of delegates highlighted the need to increase engagement and trust of all Member States in the GGE process. In this regard some delegates suggested that efforts be made to include new regions and subregions in the consultative process.

Some delegates put forward suggestions relating to the nature of the UN GGE format in general. Delegations also encouraged greater transparency and inclusivity in the GGE process. At the same time, some recognized the GGE format also serves an important role in providing a space for Member States to discuss complex and often divisive issues in a more frank setting.

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[1] https://www.un.org/disarmament/group-of-governmental-experts/

Some delegates noted that the concurrent process of the Open-Ended Working Group (OEWG) can fill an important gap on many of these fronts, while others put forward suggestions as to how the GGE itself could become more transparent and inclusive. This could include conducting and sustaining consultations with regional bodies throughout the duration of the GGE as well as by providing regular briefings to the broader UN membership following each session.

Regional Perspectives

The session on regional perspectives was chaired by Amb. Helmi-Tiirmaa-Klaar, Ambassador for Cybersecurity, Estonia

Speakers included:
- Mr. Moctar Yedaly, Head, Information Society Division, African Union Commission (AUC)
- Mr. Gaurav Keerthi, Assistant Chief Executive, Cyber Security Agency of Singapore (CSA)
- Ms. Camille Gufflet, Policy Officer, Cyber Security Policy Division, European External Action Service (EEAS)
- Mr. Belisario Contreras, Cyber Security Programme Manager, Inter-American Committee against Terrorism (CICTE), Organization of American States (OAS)
- Ms. Szilvia Toth, Cyber Security Officer, Organization for Security and Co-operation in Europe (OSCE)

Each speaker presented an overview of the outcome of the GGE consultative meetings with member/participating States of their respective organizations. The discussion between panel members recalled a number of important points from these discussions including the fact that the consultations served as an excellent platform for greater inclusivity and sharing of views, a "step change" in the GGE process. Some delegates affirmed the importance of taking onboard regional perspectives, priorities and good practices and channelling them into both the GGE and OEWG processes.

In their presentations and the ensuing interactive discussion speakers highlighted how regional organizations:

- Contribute to interpreting and implementing the principles at the core of the recommendations of previous GGEs and develop awareness around the building blocks necessary to enable their implementation.
- Play an important role in implementing specific GGE recommendations on CBMs and norms. For instance, some regional bodies have developed dedicated mechanisms for developing their own CBMs, adapted to the regional context. The OSCE, OAS and the ARF have established working groups or similar, the former two focused on CBMs, the latter on both CBMs and norms. The working groups in themselves serve important confidence-building functions. The AU has established an advisory body that will consider, *inter alia*, issues that resonate with the recommendations of the GGE, while maintaining a strong focus on identifying capacity needs and establishing the necessary partnerships with other organizations such as the EU to implement capacity-building programmes tailored to the region's needs.

- Can play an <u>essential role in preventing conflict between States</u>. In this regard, speakers noted that the confidence-building measures developed so far at regional level are largely centred on <u>ensuring greater transparency and cooperation</u> between their members, which in turn can enhance <u>predictability</u>. These measures include exchanges of information on strategy and doctrine; exchanges of information on perceptions of threat and incident response; establishing lines of communication; or establishing policy and technical points of contact.
- Serve as important <u>platforms for intra- and cross-regional dialogue</u> and <u>sharing of lessons and good practices</u>. Speakers from the five organizations discussed how they increasingly engage with each other through conferences or similar to share regional expertise and experiences on confidence building, or support or participate in capacity-building exercises.
- Serve as <u>capacity-building champions</u>. Regional organizations such as the EU are increasing their investment in capacity building, are establishing cyber security centres of excellence and are professionalizing their work in this area, ensuring it is tethered to broader policy goals such as development, security and defence.

Existing and Emerging Threats

<u>Technological threats</u> raised during discussions included spear phishing emails targeting government entities; the spread of ransomware cases; and different misuses of social media. Delegates also raised a number of concerns relating to the <u>risks</u> associated with increasingly autonomous technologies and the growing normative complexities surrounding them. These and other tools and capabilities are being integrated into cyber operations. Other issues raised included the increase in threat vectors brought about by the internet of things (IoT) and increasing autonomy in weapon systems. Threat actors continue to include States as well as terrorist and criminal groups.

Rather than addressing each new technology and its effects, some delegates recalled how existing instruments have stood the test of time by focusing on acceptable and non-acceptable behaviours associated with the technologies rather than the technologies themselves. The delegates were reminded that some technologies may require a more detailed discussion since the human-machine interface design of some applications of technology is becoming more complex, which in turn raises questions about behaviours and responsibilities.

On social media, a number of delegates underscored the growing number of threats emanating from misuse of social media platforms or the data hosted therein. Sometimes they are leveraged to interfere in or influence the domestic processes of other States, including elections. Also discussed were the scope and scale of the societal effects generated through these platforms, as well as challenges relating to how the platforms are governed. Some delegates noted efforts they have undertaken to respond to these threats posed by terrorist and criminal uses of ICT and through proposals submitted to the General Assembly (ref. Letters submitted to the United Nations addressed to the Secretary-General in 2011 (UN document A/66/359) and 2015 (UN document A/69/273).

International law and norms

Delegates broadly affirmed that the 2015 GGE report should be the starting point of the GGE's work. At minimum, the Group should not roll back from these agreements and the recommendations contained therein, particularly those relating to international law and voluntary norms.

During the discussion several delegates reemphasized the elements on international law in the 2013 and 2015 reports, notably that international law, and in particular the Charter of the United Nations, is applicable to State uses of ICTs, although questions on *how* it applies remain. A number of delegates recalled the established legal principles noted in the 2015 report, including humanity, necessity, proportionality and distinction, and their relevance to protecting civilians and civilian objects during armed conflict. In this regard, a representative from a participating international organization noted growing concern about the human cost arising from the growing use of cyber operations in armed conflict and related implications for essential public services such as health care. The representative expressed the view that the applicability of international humanitarian law to cyber operations during armed conflict does not encourage the militarization of cyberspace or legitimize cyber warfare, just as it does not legitimize any other form of warfare. The speaker recalled existing International Humanitarian Law principles and rules, noting their applicability to the use of new weapons, means and methods of warfare during armed conflicts, including those relying on ICTs.

Some delegates centred their statements around the need to prevent armed conflict from breaking out in the first place, referencing the relevant Charter provision on the peaceful resolution of disputes in that regard. An observation was made about how the non-binding norms are sometimes referred to as only applicable in peacetime, which could be considered as undermining the normative outcomes of the 2015 GGE report. Concerns were also raised regarding the militarization of cyberspace and recent policy positions and statements of some States.

On non-binding norms, rules and principles, a number of delegates echoed the suggestion that has been made across the regional consultative meetings and the OEWG that the GGE could provide specific guidance on the mechanisms and structures that need to be put in place to enable adherence to the recommendations of the 2015 report.

Confidence and capacity building

Delegates reemphasized the importance of capacity building to overcoming existing digital divides. Capacity building should empower recipients and be sensitive to regional and national contexts. This can be achieved if underpinned by critical principles such as national ownership, transparency and sustainability. Capacity-building efforts should also be coordinated so as to avoid duplication of effort.

A number of delegates highlighted the links between capacity building and the CBMs and norms recommended by the 2015 GGE. Some States are organizing or tailoring their capacity-building support efforts around these topics, while other forms of capacity-building support are more focused on international law or on channelling capacity building to fill much-needed cyber security and resilience needs. Several delegates noted the importance of strengthening

law enforcement capacities and strengthening information sharing between law enforcement officials.

On confidence building, a couple of delegates recalled the genesis of the OSCE CBMs and their emergence from bilateral discussions. Most CBMs that have been agreed whether at regional or bi-lateral/pluri-lateral levels fall into the categories of transparency and cooperation and as such, are viewed as complementary to those norms in the 2015 report which encourage restraint.

Common to the discussion on non-binding norms, rules and principles, a number of delegates suggested that the new GGE could provide guidance on implementing CBMs. Examples of relevant guidance for implementing CBMs (e.g. for establishing points of contact) already exist within the OSCE and the OAS and can be shared from a good practice perspective. The GGE could also draw from the experiences of those experts who participated in the last GGE since important efforts were made during that GGE to provide implementation guidance. Questions were also raised about the possibility of universalizing some of the existing regional CBMs.

GGE Chair's Summary of Discussions

At the end of the consultative meeting, the GGE Chair summed up the discussions, highlighting the following:

- Strong agreement between delegates that the 2015 GGE report is a fundamental agreement not to be tampered with. The new GGE needs to move forward and make further progress by adding additional layers of understanding or agreement.

  The benefits of the consultative aspect of the GGE mandate and of having held consultative meetings with regional organizations and the broader UN membership prior to the commencement of the first session of the GGE. These steps have enabled more inclusivity and the Chair will make every effort to share with the experts the views that have been captured to date.

- The desire for more transparency and inclusivity around the work of the GGE itself. While recalling that the GGE is a format mandated by the General Assembly and as such has its parameters, within these parameters, the Chair noted that he aims to be as transparent and inclusive as possible. In this regard the Chair will endeavour to:

  o Hold more consultations in different regions, if an interest is expressed and resources permitting, while at the same time, continue the important dialogue commenced with those regional groups he has already held consultations with.
  o During the first session of the GGE (9-13 December) raise the possibility with the experts of providing post-meeting briefings to the broader UN membership on the Group's deliberations.

- On emerging threats, a number of new issues, including new threat vectors emerging around the growing connectivity of devices and machines (Internet of Things), as well as developments in sub-disciplines of AI such as automation, robotics and machine learning. While these developments bringing much opportunity, different uses or applications can

bring about new risks, including to the maintenance of international peace and security. On how to manage these risks, the Chair noted a call by several delegates for attention to be focused on behaviours and responsibilities rather than the technologies *per se*. The Chair noted the importance of looking more closely at the recent developments discussed and their implications for international peace and security.

- Delegate discussions on international law-related issues centred on the assessment in the 2013 and 2015 reports that international law, and in particular the Charter of the United Nations, is applicable to State use of ICTs. Efforts should not be made to roll back these elements of the previous reports even if discussions on *how* they apply or are interpreted remain complex. The Chair recalled an important innovation in the resolution establishing the new GGE, which provides for an annex containing national contributions of participating governmental experts on the subject of how international law applies to the use of ICTs by States (op. 3, A/RES/73/266). As discussed during some of the regional consultations, sharing these views in an annex to the Group's final report can promote common understandings on many complex issues, as well as foment greater trust and predictability.

- On norms, CBMs and capacity building, the Chair took note of the interest expressed for the GGE to provide guidance on steps that can be taken at regional and national levels to implement them. There was also a suggestion for some form of system or mechanism connected with the recommended norms, rules and principles in the 2015 report.

- On what lies ahead, the Chair stressed that while the discussions are complex and it will not always be possible to agree, it will nonetheless be important not to leave the UN without a process as was the case in 2017. In this regard, it is important to maintain the goal of achieving success in both groups, which are in essence intrinsically linked as they are both consensus processes.