Informal consultative meeting of the Group of Governmental Experts (GGE) on Advancing responsible State behaviour in cyberspace in the context of international security, 4-5 December 2019

**Presentation on the substantive outcomes of past GGEs**
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Background
- Thank you Amb. Patriota. Mr. Chairman. It is an honour to be here today and to serve on the UNIDIR support team, along with my colleagues here and the other third of the support team that will join later this week and next.

- The work of the UN GGEs stemmed originally from a proposal made by the Russian Federation some 20 years ago. There have been 5 GGEs since then. Two of the GGEs – the first and the last - did not produce consensus reports.

Achievements
- However, following from the first attempt in 2005, three subsequent GGEs made significant progress, notably in their recommendations on international law and on norms for expected behaviours of States in their uses of ICT. They have also made progress in identifying confidence building and capacity building measures that can contribute to these goals.

- These developments constitute an important framework for preventing conflict and for promoting general security and stability.
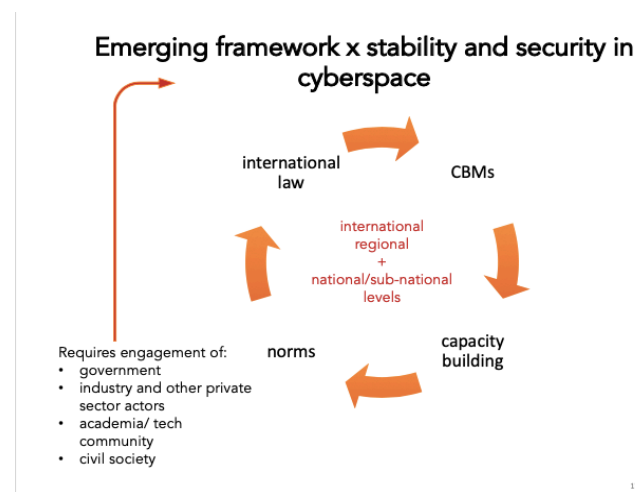
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- And from these developments in the UN stem a number of other efforts – capacity building initiatives; confidence building processes such as those underway within the OSCE, the OAS and the ARF; numerous Track 1.5 and track 2 dialogue initiatives or multi-stakeholder initiatives that many here at these consultations are involved in.

- They also complement the work of technological experts and associations that have been working to ensure a secure and safe ICT environment for decades, as well as that of specialized entities such as CERTS/CSIRTS. And of course, the efforts of industry actors, academia and civil society organizations.

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- Returning to the GGEs, why is the substance of these reports so important, leading the General Assembly to recommend that States be guided in their uses of ICT by the 2015 report in particular? What have they acknowledged and recommended that can prevent conflict, and ensure a more stable and secure ICT environment?

    o **First** of all, <u>threats</u>. The GGEs have all recognized that different behaviors in cyberspace have become increasingly destabilizing and that certain activity or developments in the way State and non-State actors use ICT pose a real risk not only to international security but also to the global economy as it undergoes profound transformations. All States - not just the major powers - are affected by this behavior. This acknowledgement of the threat landscape has been evident in the work of all GGEs and provides a basis for the specific measures that have been recommended by the different Groups.

    o **Second, <u>international law</u>**. The 2013 report acknowledged that the UN Charter in its entirety and other international law are applicable to state use of ICT. This acknowledgement was reconfirmed in the 2015 GGE, which also delved deeper into the study of how international law applies. The main international law matters that have been discussed include key Charter rules and principles such as sovereignty and jurisdiction, the peaceful settlement of disputes and refraining from the threat or use of force.

    In addition, the GGEs have discussed humanitarian law and human rights law, making reference to specific principles and existing instruments and protections, as well as new ones, such as the right to privacy in the digital age and the protection of human rights online. They have also discussed questions pertaining to state responsibility, notably due diligence as well as lawful countermeasures that might be taken when one State uses ICT to commit internationally wrongful acts on the territory of another State.

    Disagreements in the last GGE around some of these issues and how they apply in practice was one of the reasons why the Group failed to reach consensus. Certainly, these are still complex issues. Both the OEWG and the new GGE will continue to study how international law applies to State uses of ICT. The resolution establishing the GGE also provides for an annex in which experts can submit their views on the matter. Already, some states are making public their views. The OAS juridical commission has a specific project on this. These different steps can help enhance transparency and identify where there are commonalities on States' interpretations of how international law applies and where differences remain.

    o **Third, <u>non-binding norms, rules and principles of responsible state behaviour</u>**. The 2015 report recommended some eleven norms relating to States' peacetime uses of ICT. A mix of positive duties and restrictive measures, these expectations of behavior allow States to assess the activities and intentions of States in their uses of ICT. They also allow other actors to marshal their own efforts in a way that contributes **to** or builds **upon** these same normative objectives.

    o **Fourth, <u>confidence building measures</u>**. While often criticized for their Cold War roots, the confidence building measures recommended by the GGEs serve important purposes. Taken up by the regional organizations already mentioned, today they serve as important launch pads for strengthening dialogue, transparency and cooperation between states – all of which are critical elements of conflict prevention.

For instance, measures aimed at establishing policy and technical Points of Contact or that promote the sharing of policies, doctrine and strategy, or severity schemas and templates can go a long way in strengthening transparency and, by extension, avoiding miscalculation and misunderstandings. Such measures – if accompanied of course, by the necessary political clout - can also enable implementation of - or complement - many of the recommended norms. And the processes around them can contribute to raising awareness and identifying resource and capacity needs.

o   F**ifth, capacity building**. The GGE reports have all raised the importance of capacity building for all countries and across all sectors, leading, as mentioned, in some instances, to the establishment of important initiatives within and across sectors and actors. Raising the bar on capacity building has become even more important as States and scores of other stakeholders try to make sense of our digital dependencies and the associated risks to our economies, our rights, our security and much else. And capacity building requires sensitivity to a number of issues including existing divides, questions of sovereignty and human rights, an appreciation of cross-policy linkages, and the commitment of significant resources.

o   And last but not least, **complementarities** – as discussed – while the work of the GGE is well anchored in the First Committee which focuses on disarmament and international security, the different GGEs have acknowledged work underway in - and complementarities with - other critical processes. These include development and the SDGs and human rights in the second and third committees, ECOSOC and the Human Rights Council, to those efforts aimed at tackling criminal and terrorist use of the internet, taking place within the Third Committee and the Security Council.

Slide 2 See: https://www.unidir.org/files/publications/pdfs/the-united-nations-cyberspace-and-international-peace-and-security-en-691.pdf

Thank you!