



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

**International Law
and
Rules, Norms and Principles**

**Statement by H.E. Nathalie Jaarsma
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of the Kingdom of the Netherlands to the United Nations**

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International Law

- To adjust to our time limitation, I would like to provide you our comments both on the section on international law and the one on rules, norms and principles.
- The Netherlands [aligns itself with the EU statement and] is of the view that existing international law applies in its entirety.
- The second sentence of par. 23 should be brought in line with the obligation it refers to. 'Avoid and refrain from' should be replaced by 'comply with the obligation' -
- The Netherlands proposes to include a clear reference to the 'acquis' on international law from the GGE consensus reports that formed the basis for the discussions at the OEWG.
- As we explained yesterday, we would like the importance of the application of human rights to be reaffirmed. We propose to add the word 'free' to par. 23 after 'open'.
- We reiterate that we would like to see more comprehensive wording on peaceful settlement of disputes than currently reflected in par. 23. It should also refer to the obligations of States under the UN Charter and the means of peaceful settlement of disputes, such as negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
- Mindful of the goal that to reach a consensus report, we would like to highlight the importance of including a reference to the applicability of International Humanitarian Law in cyberspace, we have previously welcomed the notion of IHL in the Zero Draft.
- We would have liked to see a reference included in the conclusions and recommendations to the notion that certain cyber operations might give a State cause to invoke its inherent right to self-defence pursuant to Art. 51 of the Charter.
- Lastly, the Netherlands welcomes the proposal on paragraph 28 for a more active position of the Secretary-General and the Tech Envoy in seeking national views and practices on how international law applies to the use of ICTs in the context of international security-so as to encourage the ongoing dialogue thereon.

Norms

- The Netherlands believes that the section on norms adequately reflects the rich discussion in the OEWG and the multistakeholder consultations.
- The Netherlands strongly supports paragraph 30 and 31. It clearly show how norms can contribute to settings standards regarding of responsible behavior in cyberspace.
- During our discussion, we all agreed there was already a solid foundation to our discussion. We would like the report to clearly reflects the "acquis", endorsed by consensus. For this purpose, we prefer to refer to the current paragraph 7. But with the aim to reach consensus, a reference to consensus resolution 70/237 would also be sufficient for us.
- I am not going to repeat the points I made yesterday regarding the parallel between the threats and norms. However, I just want to say that the Netherlands strongly welcomes the content of paragraph 32. It is a clear example of the added-value of the OEWG and demonstrate how to build upon the acquis, to give guidance by introducing new and relevant elements such as ensuring the general availability or integrity of the internet and the protection of the health infrastructure.
- We wish to make one small amendment to paragraph 32 by referring back to a novel threat identified under the current threat section by including infrastructure essential for political and electoral processes.
- Our final comment regarding norms is on paragraph 38. We strongly welcome the recalling of the landmark resolution 70/237. However, we feel that resolution 70/237 and resolution 73/27 are of different orders of magnitude, as resolution 73/27 did not enjoy consensus. We suggest therefore to changing the latter recalling to *noting*. Additionally we suggest to end the sentence after *within the United Nations*, deleting everything after the comma starting with the word *noting*. We feel that the future of discussion in First Committee is to be addressed under Regular Institutional Dialogue.