



NEW PROGRAMME OF ACTION (POA) FOR ADVANCING RESPONSIBLE STATE BEHAVIOUR IN CYBERSPACE

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January 17, 2021

(Views expressed in the brief are those of the author, and do not represent those of ISSI)



As the fourth and last round of discussions of the UNGA “Open-ended Working Group (OEWG)” concluded in December 2020, the member states proposed the establishment of a “Programme of Action (PoA)”¹ for “advancing responsible state behavior in cyberspace.” By ending the existing dual-track mechanisms of the OEWG and Group of Governmental Experts (GGE), the PoA will emerge as a single, inclusive and permanent forum to deliberate on cybersecurity at the United Nations (UN).

France, United Kingdom, European Union and 38 other member states proposed this PoA. As a permanent UN forum, the foremost responsibility of the PoA will be the creation of a comprehensive international framework based on the principles agreed by the member states in the GGE process. The PoA will convene regular working-level meetings on annual basis and review conferences every five years. These meetings will carry out consultations and decision making in six key areas: refinement of the framework; enhance capacity building; develop confidence-building measures (CBMs); improve coordination among the relevant stakeholders; establish cyber norms; and applicability of international law to cyberspace.² The PoA, as a First Committee process, will get secretarial services from the “United Nations Office of Disarmament Affairs (UNODA) or/and the United Nations Institute for Disarmament Research (UNIDIR)” until the establishment of its own

¹ United Nations, Office of Disarmament Affairs (UNODA), *Joint Contribution – Programme of Action*, last updated on December 2, 2020, <https://front.un-arm.org/wp-content/uploads/2020/12/joint-contribution-PoA-future-of-cyber-discussions-at-the-un-2-2-2020.pdf>.

² Ibid.

Bureau. The PoA will also establish a dedicated portal to consolidate the existing information, reports, country profiles, and working papers.³

In the time of COVID-19 pandemic, when the information and communication technologies (ICTs) have become an essential component of political, social, economic and diplomatic activities, the proposal of establishing an all-inclusive and permanent UN platform appears to be a right step in the right direction at the right time. However, no matter how good this proposal is made to look on papers by the sponsoring countries, the PoA will face some serious challenges. Firstly, this proposal comes with a huge price tag. Instituting a completely new UN platform requires additional financial contributions from the member states for annual meetings, review conferences, maintenance of a dedicated portal, establishment of Bureau and maintenance of secretarial services. Currently, the United States bears approximately one-fifth of the UN budget and many UN agencies rely on its voluntary contributions. In the last few years, the cuts in the US funding were quite painful for the UN. For example, the US withdrawal from the World Health Organization (WHO) alone has resulted in a loss of \$900 million biennially.⁴ In the wake of unreliable funding issue from a major contributor and ongoing global health emergency, it will be extremely difficult for the UN to bear the expenses of a new platform unless any other major contributor decides to step up.

Secondly, the OEWG's recommendation to end its own existence within the first year of its establishment raises a big question mark over the initiation of the OEWG process in the first place. Furthermore, it is as clear as day that the GGE and OEWG processes are more about the great power competition between Russia and US, rather than discussing the future of cyberspace. The PoA is facing severe backlash on the suggestion of ending the GGE process, especially from Russia. In its official statement at the recent OEWG meeting, the Russian representative said that the OEWG should discuss recommendations for its own future and make efforts to preserve its own mandate. The OEWG is not "authorized" to give recommendations regarding the future of the GGE process, he added.⁵

³ United Nations, Office of Disarmament Affairs (UNODA), *Concept-note on the organizational aspects of a Programme of Action for advancing responsible State behaviour in cyberspace*, last updated on December 2, 2020, <https://front.un-arm.org/wp-content/uploads/2020/12/sponsors-oweg-concept-note-final-12-2-2020.pdf>

⁴ Amanda Shendruk, Laura Hillard, and Diana Roy, *Funding the United Nations: What Impact Do US Contributions Have on UN Agencies and Programs?* *Council on Foreign Affairs*, last updated on June 8, 2020, <https://www.cfr.org/article/funding-united-nations-what-impact-do-us-contributions-have-un-agencies-and-programs>

⁵ United Nations, Office of Disarmament Affairs (UNODA), *Statement by the representative of the Russian Federation at the online discussion of the second "pre-draft" of the final report of the UN Open-ended Working Group on developments in the field of information and telecommunications in the context of international security* (Moscow, June 15, 2020), <https://front.un-arm.org/wp->

Thirdly, the PoA does not take into account the controversy that surrounds the applicability of existing international law to cyberspace. This is one of the main issues behind the deadlock at the GGE. The US and its European allies are of the view that the existing international law is fully applicable to cyberspace. However, Russia supports the establishment of an entirely new legal regime for cyberspace. In its official statement at the OEWG meeting, the Russian representative stated that on the issue of regulating cyberspace, there is a huge “de facto legal vacuum” to be filled with new and innovative legal measures.⁶ Russia has also maintained the same official position at the GGE. Therefore, the PoA or any other initiative that does not take into account this issue is destined to end in a controversy at the UN.

Russia is also planning to introduce a new resolution in 2021 for the extension of the OEWG until 2025. Taking into account the new resolution and current Russian position at the OEWG, the chances of achieving consensus on the establishment of the PoA in the final OEWG report are bleak. If this happens, then the US and its allies have the opportunity to put forward a proposal for the establishment of the PoA through a new resolution in the United Nations General Assembly to replace the GGE process. However, the US has decided to wait until the finalization of the reports by the GGE and the OEWG in March 2021.⁷ Therefore, whatever happens in March 2021, we will be again back to square one – the dual-track mechanisms instead of one permanent platform at the UN.

content/uploads/2020/09/oewg-informal-virtual-meetings-statement-by-the-russian-federation-15-june-2020.pdf

⁶ Ibid.

⁷ Josh Gold, *Competing U.S.-Russia Cybersecurity Resolutions Risk Slowing UN Progress Further*, *Council on Foreign Affairs*, October 29, 2020, <https://www.cfr.org/blog/competing-us-russia-cybersecurity-resolutions-risk-slowing-un-progress-further>