China's Contribution to the Initial Pre-Draft of OEWG Report

China applauds the conscientious work by the Chair and your team, and appreciates the efforts made in the initial "pre-draft" trying to summarize and reflect views of all parties in a comprehensive and balanced way, and in particular to dwell on the establishment of regular institutional dialogue under the auspices of the UN. At the same time, China believes that the report should make an explicit and clear reflection of the common aspirations of the international community such as maintaining a peaceful and secure cyberspace for the common good of all. China is willing to work with the Chair and all parties for a consensus final report.

I.Priority of Work

OEWG was established under the UN resolution A/RES/73/27 (under the UN First Committee), with an aim and priority to promote peace and security in cyberspace. China takes note that the pre-draft repeatedly made references to issues such as sustainable development, human rights and gender equality. In the long run, these issues are important for us to take a comprehensive and balanced approach to cyber issues. However, these are anything but the priority of this group and were not discussed at the previous two sessions. Also,there are other mechanisms under the UN framework that have been working on these issues. Given the limited amount of time we have with this group, it is recommended that while

emphasizing the principle of striking balance between cybersecurity and human rights, cybersecurity and development, the aforementioned content should be significantly cut down.

II.Norms of Responsible State Behaviour

We believe that this section of the report should be written in a manner that will not send an implication to the international community of downplaying the role and significance of norms in one way or another. As mandated by UN Resolution A/RES/73/27, the OEWG should prioritize its work on further developing and implementing the rules, norms and principles of responsible behaviour of States, which should be well represented in the layout of the report by placing this section right after "existing and potential threats" to demonstrate its significance. It is worth noting that the 2015 GGE report also expounds on "norms, rules and principles for the responsible behaviour of state" following the section on "existing and emerging threats". The layout of the report is more about the substance rather than a simple procedural issue.

Other than that, the report should also pay specific attention to its wording. For instance, when expounding on the role of norms, we should center our discussion around the key word of "setting standard" from the 2015 GGE report, instead of "providing guidance" as described in this pre-draft which is unacceptable to us.

Another thing that confuses us is the excessive repetition of "voluntary,

non-binding norms" in the pre-draft. It is true that our discussions are based on the recommendations for voluntary norms of state behaviour recommended by the 2015 GGE report. However, an overstatement of "voluntary, non-binding" may send an unconstructive message to the world that we are unwilling to abide by the hard-won norms established through strenuous negotiations. China would like to stress that while we strive to replenish and implement these norms, we are also building up more consensus throughout this process. If it comes to a point when all parties reach common and high consensus on these norms, it is totally reasonable to translate them into a more binding international instrument.

When it comes to substantive issues, the pre-draft needs much improvement and supplement commensurate with the current situation and emerging challenges in the digital age with a view to working on the most urgent issues that concern all parties and meeting the expectation of the international community. And this should be on high agenda for all parties in their future discussions. Following are some key issues:

1) During the previous two sessions, parties including China have put forward dozens of constructive proposals on issues such as cyber sovereignty, supply chain security, protection of critical infrastructure, refraining from unilateral sanction and fight against cyber terrorism. It is hoped that these proposals could be incorporated in the report, in particular the proposals that supply chain security should be approached in an impartial and non-discriminatory manner.

2) China takes note of "developing a common approach to attribution at the technical level" in the pre-draft. It is China's consistent position that the best approach to attribution should be a universally-accepted one under the auspices of the UN. And until the international community finds such a approach, countries should first settle their disagreements and disputes through consultation and avoid unilateral actions that may escalate the current situation.

Given the limited amount of time we have, attention should also be drawn to avoid introducing concepts that have not gained global consensus yet ("public core" for instance) into the report.

III.Application of International Law

China believes that affirming the application of relevant existing international laws, and formulating new international instruments in accordance with the characteristics and developments of cyberspace will be conducive to building an international order in cyberspace.

When it comes to application of international law, the starting point and ultimate goal should be to ensure peace and stability in cyberspace through cooperation. In this vein, our work should be centered around affirmation that the UN Charter be applicable in cyberspace, including the Charter provisions of sovereign equality, no threat or use of force, peaceful resolution of disputes, non-intervention in the internal affairs of other States and fulfilling international obligations in good faith.

As for other issues pertinent to the application of international law, in-depth discussions should be conducted in the principle of prudence and objectivity without any prejudice. We should be extremely cautious against any attempt to introduce use of force in any form into cyberspace, have sober assessment on possible conflicts and confrontations resulted from the indiscriminate application of the law of armed conflicts in cyberspace, and refrain from sending wrong messages to the world. And when it comes to state responsibility, which, unlike the law of armed conflicts or human rights,has not yet gained international consensus, there is no legal basis at all for any discussion on its application in cyberspace.

In addition, China is concerned about the proposals to create a "global repository of State practice in the application of international law" and regional exchanges of views and development of common understanding on the application of international law. Our pressing task should be to have in-depth discussions and reach universally-accepted consensus on application of international law, rather than to engage in self-explanations at regional levels or among a small group of countries, expand division and undermine trust.

The view that "existing international law, complemented by the voluntary, non-binding norms that reflect consensus among States, is currently sufficient" is obviously inconsistent with the current situation and existing consensus. Many countries believe that the best option is to formulate new international legal instruments commensurate with the characteristics of

cyberspace, with a view to maintaining peace in cyberspace, instead of using legal instruments as a tool to pursue accountability and punishment unilaterally.

IV. Regular Institutional Dialogue

China supports the establishment of an effective and permanent mechanism under the auspices of the UN and having in-depth discussion and long-term planning for future cyberspace governance. This is also the common call of most countries. We should follow the trend of history and meet the expectations of the international community to continue the work of the OEWG. There is no need to impose restrictions on ourselves because of the existence of the GGE.

In addition,the pre-draft makes several references to the role of multi-stakeholders. It is true that multi-stakeholders play an indispensable role in maintaining cybersecurity. However, given the fact that OEWG is an intergovernmental process, our discussion should focus on the role played by states and governments, not the opposite.