CUBA´S CONSIDERATIONS ON THE SECOND PRE-DRAFT OF THE OPEN-ENDED WORKING GROUP (OEWG) ON DEVELOPMENTS IN THE FIELD OF INFORMATION AND TELECOMMUNICATIONS IN THE CONTEXT OF INTERNATIONAL SECURITY.

FIRST CONSULTATION, JUNE 19th

We would like to thank you, Ambassador Lauber and your team, for the work you have been doing in these difficult circumstances. We are aware of how difficult it is to compile all national contributions and priorities into one document that must be adopted by consensus. Although Cuba has expressed its concerns about the approach and the report, we would like to express that you have our unconditional support for the management and leadership of this process. We will maintain our constructive commitment to you and the work of the Group to achieve the best possible outcome for all of us.

General remarks:

1. In general, we consider that the present structure of the report attempts to reproduce that of the reports of the previous Groups of Governmental Experts, in spite of the fact that we are facing a completely different process.
2. We note with concern that throughout the report, the meaning of many of the terms used is unclear or their interpretation depends on the State that uses it. The OEWG needs to adopt a common terminology by consensus to move the discussion forward.
3. The draft report should have an approach contrary to the militarization of cyberspace, since the fundamental objective of establishing the norms, rules and principles of responsible behavior of States is to ensure the use of ICTs for peaceful purposes only. In no case should the concept and/or principle of countermeasures in cyberspace be legitimized, especially since this is not an internationally recognized legal concept.
4. The draft report should reiterate that all States should refrain from applying the threat or use of force or the imposition of other unilateral coercive measures to other States, within and through the ICTs environment.
D. Norms, rules and principles of responsible behavior of States

a. We note with concern that many of the proposed norms merely implement those adopted in the 2015 GGE report. In this regard, we underline that although the norms agreed in the 2015 GGE report have been endorsed by UNGA resolutions, the provisions subsequently developed and agreed do not represent the view of the majority of the international community, which is now engaged in this process. We should not be limited to the 2015 GGE report.

b. In this regard, it is necessary that important proposals that were submitted by the Non-Aligned Movement, representing a large group within the UN membership, be included in the draft report. These proposals cover many important subjects that are absent in the draft report, such as the essential role of multilateralism, the rejection of the application of unilateral coercive measures, and the common goal of the international community that cyberspace be safe, exclusively peaceful and that it contributes to the development of all nations, between others.

c. The OEWG is a historic process; it is the first forum to provide all Member States with the opportunity to participate and express their views transparently and on equal footing. The OEWG’s raison d'etre is to engage the international community as a whole in this highly relevant and current issue.

d. Therefore, we urge to analyze all the proposals equally, including the ones which aren’t related to the 2010, 2013 and 2015 GGE reports. In this sense, the norms, rules and principles of responsible behavior of States endorsed by the majority of the Member States of the United Nations in resolution 73/27 must be equally considered and taken into account.

e. The 11 voluntary and non-binding norms of responsible State behavior, established in the 2015 report of the Group of Governmental Experts, the norms contained in General Assembly resolution 73/27 and any other norm adopted in the future must be considered as intermediate steps towards the adoption of a legally binding international instrument that fills the existing legal gaps in the field of ICTs in the context of international security.

f. Although these regulations articulate which actions should States engage in or not, guidance on how to operationalize them is needed.
g. With regard to paragraph 41, we would like to emphasize that any proposal aimed at developing a roadmap to assist States in their implementation efforts should be previously discussed and agreed upon by the Member States themselves. Other initiatives, such as best-practice sharing surveys, should be voluntary in nature.

h. As noted before, this section also uses concepts that have not been defined nor have the consensus of all Member States. In this regard it is unclear what parameters have been used to distinguish between critical infrastructure and critical information infrastructure.

**Considerations on proposals contained in the non paper**

We have carefully considered the proposals made by Member States contained in the non-paper prepared by the President. In this regard, we highlight the following elements:

a) Many proposals make recommendations on the internal behavior of the countries in aspects that constitute sovereign prerogatives of each State.

b) The importance of the respect for human rights and fundamental freedoms in the use of ICTs is already noted in the introduction of the pre-draft, we do not consider appropriate to refer to the resolutions of the Human Rights Council in this section.

c) Reference is made to “legitimate” and “illegitimate” activities and interests without clarifying what is meant by these terms in each case.

d) The mention of non-state actors in these norms, rules and principles, that are intended to guide the conduct of States, should not replace the need to regulate the behavior of non-state actors, including the private sector in the field of ICTs in the context of international security.

e) We consider that no reference should be made to initiatives that do not include the participation of all Member States, such as the Freedom Online Coalition Statement, included in the draft through a footnote.