



PERMANENT MISSION
OF THE PRINCIPALITY OF LIECHTENSTEIN
TO THE UNITED NATIONS
NEW YORK

H.E. Jürg Lauber
Ambassador, Permanent Representative
of Switzerland to the United Nations
Chair of the OEWG on ICT

New York, 2 April 2020

Liechtenstein Submission to the pre-draft of the OEWG report

Excellency,

Liechtenstein is grateful for your efforts in steering the OEWG on ICT through its deliberations in an expert manner and on the basis of fairness, inclusiveness and transparency. We welcome the circulation of your pre-draft report for consultation with member States at an early stage and your call for substantive feedback. In this regard Liechtenstein submits the following comments for your consideration:

- Liechtenstein supports your efforts at a comprehensive reflection of the rich discussions in the OEWG as we believe this provides a useful basis to move our discussion forward in the future. At the same time, Liechtenstein underlines that its national position significantly diverges from or is incompatible with certain positions expressed in the pre-draft report (notably paragraphs 27, 28), as is to be expected in this kind of exercise.
- With the aim of comprehensiveness in mind, Liechtenstein proposes inclusion of the following elements in section c “international law” that have been part of the discussion, but are not currently reflected in the text:
 - o 25 bis: During the discussions the importance to increase compliance with international law in cyberspace was raised. While there is consensus on the applicability of international law, for it to have its full deterrent effect accountability for violations under international law must be addressed as well. In this respect the importance of attribution was underlined both with regard to State responsibility and individual criminal responsibility, and with respect to the latter the relevance of the application of the Rome Statute in the cyber context was raised. The possibility of a robust global attribution framework to complement the work of existing national and international courts was also raised.

- In section e “confidence-building measures” Liechtenstein would consider it useful to reflect the work of regional organisations such as the OSCE in building confidence among States. Reference to these efforts could be included in paragraph 44, for example, with respect to the mentioned points of contact. In addition, we would like to raise the question if it could be useful to refer explicitly to initiatives of the private sector that are relevant to the work of the OEWG in paragraph 47.
- In section g “regular institutional dialogue” paragraph 64 could reflect, in addition to the reference to the rich exchange between States and stakeholders, that such exchanges were welcomed by many States as a significant contribution to capacity building.
- With respect to the proposed recommendations Liechtenstein welcomes the envisioned role of the Secretary-General as a focal point to proactively collect views and practices of member states in the areas of international law, rules, norms and principles and capacity building. We believe the Secretary-General could also serve a focal point to collect and reflect the activities and best practices of regional organisations and relevant private sector initiatives in that regard.
- On the recommendations for institutional follow-up we would appreciate more details as to the proposed mandate for the ILC.
- Liechtenstein supports the inclusion of the following point into the recommendations under 68 a):
 - o States be encouraged to discuss questions of accountability for violations of international law in cyberspace, including questions of attribution of illegal and malicious behavior.
- Liechtenstein supports the continuation of discussion in the framework of the OEWG. As additional guidance the following elements should be part of a recommendation by the OEWG to continue its mandate:
 - o Specify the meaning of “consensus basis” as an acknowledgement of the importance of consensus in the work of the OEWG, which should remain the primary aim of its deliberations
 - o Ensure that all relevant actors have access to and can meaningfully participate at all stages in the deliberations of the OEWG
- On a conceptual level Liechtenstein would like to express its preference for the following formulations:
 - o Paragraph 1: use “its purposes and principles”
 - o Paragraph 2: stop after “cooperation”
 - o Paragraph 7: add at the end “whenever such exchanges were possible”
 - o Paragraphs 22 and 64 a): use “is applicable in its entirety to cyberspace”

Liechtenstein is grateful for your consideration of these proposals and looks forward to working closely with you and your team in the coming weeks with a view to agreeing on a solid report of the OEWG which duly reflects the important discussions that have taken place and provides a sound basis to continue our work.

Sincerely,



Christian Wenaweser
Ambassador, Permanent Representative