



General Assembly

Distr.: General
14 April 2021
English
Original: English/Spanish

Open-ended Working Group on Developments in the Field of Information and Telecommunications in the Context of International Security

Third substantive session

8–12 March 2021

Compendium of statements in explanation of position on the final report

Note by the Chair

Addendum*

Contents

	<i>Page</i>
Costa Rica	2
Singapore	5

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Costa Rica

Open-ended Working Group on developments in the field of information and telecommunications in the context of international security
Third Substantive Session New York, 8-12 March 2021
March 12th 2021

Señor presidente,

Agradecemos su gestión y la de su equipo en liderar un proceso de naturaleza compleja y que ha tenido los obstáculos adicionales derivados del Covid. Pese a esto, Usted supo mantener vivo el espíritu y las conversaciones de este grupo de trabajo que concluimos esta semana.

Sabemos que presentar un documento de consenso en temas tan complejos no ha sido una tarea fácil, Costa Rica le agradece por su tenaz trabajo al presidir este foro y por presentar un documento base que tanto ayuda a alcanzar los consensos necesarios.

El multilateralismo se fortalece con procesos como los que hoy culminamos.

Hemos escuchado con interés las posiciones de los países sobre los temas del derecho Internacional y las reglas normas y principios de comportamiento responsable de los estados.

También destacamos el importante consenso que hemos alcanzado en las Medidas de Fomento de Capacidades y Fomento de la Confianza, ya que también son muy relevantes para los intereses y prioridades de mi país; especialmente por las oportunidades económicas y sociales positivas que pueden derivarse de las tecnologías de Información y Comunicación, como se aborda correctamente en el párrafo 23.

Ciertamente, creemos que el contenido del reporte es balanceado y refleja a grandes rasgos, las prioridades de mi país y de muchos otros. Pero con el objetivo claro de contribuir al consenso, hemos creído importante resaltar lo siguiente:

Como otros muchos países, Costa Rica considera que el Derecho Internacional aplica también en el ciberespacio, por lo tanto, no debe quedar duda que el sistema legalmente vinculante que incluye a los Derechos Humanos, el Derecho Internacional Humanitario, las libertades fundamentales, la Carta de las Naciones Unidas, entre otros, aplica para cualquier espacio, incluido el ciber.

Creemos que es de vital importancia adoptar como conclusiones acordadas el párrafo 84 tal cual está porque clarifica el alcance e importancia del Derecho Internacional Humanitario y su relación con la ciberseguridad, asimismo, creemos que las normas no reemplazan las obligaciones internacionales de los Estados, sino que las complementan, así como lo expresa el párrafo 31.

Un mal manejo de las tecnologías de información y telecomunicación pueden obstaculizar el pleno goce de los derechos humanos u otros derechos vitales que Costa Rica considera importante que sean resguardados tanto a nivel nacional como internacionalmente, como lo son la protección de datos, privacidad, libertad de expresión, libertad de información entre otros.

Consideramos que el párrafo 7 hace una adecuada mención al proceso que nos lideró hasta acá y el aporte que han hecho los tres grupos intergubernamentales de expertos y sus respectivos reportes presentados a la Asamblea General, por lo que creemos de valor que se mantenga en el reporte final que será presentado.

Pese a esto, y de nuevo mencionamos, en aras del consenso, nuestro país también está abierto a que el debate continúe sobre un documento legalmente vinculante, y apoyamos un enfoque de consenso también en este tema que quizá se pueda desarrollar en el párrafo 29 o bien en trabajar algunas enmiendas para el párrafo 34 u 88.

Costa Rica participará de manera constructiva y activa en toda iniciativa que la comunidad internacional acuerde por consenso para atender el tema de un instrumento legalmente vinculante para las TICS en el contexto de la seguridad.

Agradecemos a las delegaciones involucradas en el Programa de Acción, tanto aquellos que han liderado esta iniciativa como aquellas que han aceptado su inclusión en este reporte. Esto nos brinda un agradable ejemplo de negociación entre estados que contribuye a tener un mejor resultado de este grupo de trabajo.

Finalmente, como lo dicho por otras delegaciones, hacemos un llamado para darle seguimiento a las conclusiones de este grupo de trabajo a nivel local, subregional y regional.

Muchas Gracias.

Costa Rica
Open-ended Working Group on developments in the field of information and
telecommunications in the context of international security
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Mr. president,

We appreciate your efforts and those of your team in leading a process of a complex nature with the additional obstacles derived from Covid. Despite this, you knew how to keep alive the spirit and the conversations of this working group that we concluded this week.

We know that drafting a consensus document on such complex issues has not been an easy task. Costa Rica thanks you for your tenacious work in chairing this forum and for presenting a base document that helps so much to reach the necessary consensus.

Multilateralism is strengthened with processes like the ones we are concluding today.

We have listened with interest to the positions of the countries on the issues of international law and the norms and principles of responsible state behavior.

We also highlight the important consensus that we have been reached on the Capacity Building and Confidence Building Measures, since they are also very relevant to the interests and priorities of my country; especially because of the positive economic and social opportunities that can be derived from Information and Communication technologies, as correctly addressed in paragraph 23.

Certainly, we believe that the content of the report is balanced and broadly reflects the priorities of my country and many others. But with the aim of contributing to the consensus, we would like to highlight the following:

Like many other countries, Costa Rica considers that International Law also applies in cyberspace, therefore, there should be no doubt that the legally binding system that includes Human Rights,

International Humanitarian Law, fundamental freedoms, the Charter of The United Nations, among others, applies to any space, including cyber.

We believe that it is vitally important to adopt paragraph 84 as agreed conclusions as it clarifies the scope and importance of International Humanitarian Law and its relationship with cybersecurity, also, we believe that the norms do not replace the international obligations of States, but rather they complement them, as stated in paragraph 31.

A foul provision of information and telecommunication technologies can hinder the full enjoyment of human rights or other vital rights that Costa Rica considers important to be guaranteed both nationally and internationally, such as data protection, privacy, freedom of expression, freedom of information among others.

We consider that paragraph 7 makes an adequate mention of the process that led us to this point and the contribution made by the three intergovernmental groups of experts and their respective reports presented to the General Assembly, so we believe that it is valuable to keep it in the report.

Despite this, and again we mention, for the sake of consensus, our country is also open to the continuation of the debate on a legally binding document, and we support a consensus approach also on this issue that may be developed in paragraph 29 or on some amendments to paragraph 34 or 88.

Costa Rica will participate constructively and actively in any initiative that the international community agrees by consensus to address the issue of a legally binding instrument for ICTs in the context of security.

We thank the delegations involved in the Programme of Action, both those who have led this initiative and those who have accepted its inclusion in this report. This provides us with a good example of inter-state negotiation that contributes to a better outcome from this working group.

Finally, as stated by other delegations, we call for follow-up on the conclusions of this working group at the local, subregional and regional levels.

Thank you.

Singapore

Explanation of Position on the Final Draft Report of the OEWG

Mr Chair, colleagues,

1. Over the past two years, under the Chair's able leadership, we have exchanged views on so many important issues on States' use of ICTs in the context of international security. The OEWG has enabled Member States to debate critical issues in an open and inclusive manner, contributing to our common understanding of these topics. This is a significant achievement of the OEWG in itself.

2. In Singapore's view, the final draft has reaffirmed the existing *acquis* as laid out in resolution 70/237, which the General Assembly adopted by consensus. Many concerns as articulated by Member States of the Non-Aligned Movement have been addressed, such as the development of ICT capabilities that undermine the international peace and security, the consequences of malicious ICT activities, supply chain security, and preventing the use of harmful hidden functions in ICT tools.

3. We acknowledge that not all elements proposed by Member States have been taken in. For Singapore, our understanding of the framework referenced in paragraph 17 is that the framework entails binding obligations under international law, as well as voluntary norms and CBMs which are not binding but guide the conduct of States. We do not consider voluntary norms and CBMs to be legally-binding, although we acknowledge the prerogative of States who wish to consider themselves so bound.

4. Even so, we remain of the view that we need to exercise flexibility in the spirit of compromise to reach consensus. While there remain areas of divergence which require further discussion, and several Member States, including Singapore, would have preferred to see further revisions to the text, the draft as it stands now is a finely balanced compromise reached after two years of discussions. The successful adoption of the OEWG final report is a significant milestone, and affirms the value of this open and inclusive process. We can then build on this momentum to make further progress in our discussions to enhance international peace and stability in cyberspace.

5. Singapore is a first-time participant in this process, as are many other countries. We are grateful to have been able to participate in the well-moderated and constructive debates. We are grateful that fellow members have indeed focused on the 80% where there was consensus, so that we can collectively help make our shared cyberspace more secure.

6. It therefore remains for me to congratulate the Chair on his work, express our deepest appreciation for him and his team's efforts and the efforts of all colleagues, and we look forward to the adoption of this text.

Thank you.
