



**MISION PERMANENTE DE NICARAGUA
ANTE LAS NACIONES UNIDAS
820 SECOND AVENUE - 8TH FLOOR
NEW YORK, NY 10017
(212) 490-7997**

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The Permanent Mission of Nicaragua to the United Nations presents its compliments to the Permanent Mission of Switzerland to the United Nations and would like to make reference to the letter by the Chair of the Open-Ended Working Group, H.E. Mr. Jürg Lauber, dated April 1 of 2020.

In this regard, the Permanent Mission of Nicaragua would like to attach a document containing written comments on the pre-draft of the Open-Ended Working Group on developments in the field of information and telecommunications in the context of international security.

The Permanent Mission of Nicaragua to the United Nations avails itself of this opportunity to renew to the Permanent Mission of Switzerland to the United Nations the assurances of its highest consideration.

New York, April 3, 2020

**Permanent Mission of Switzerland
to the United Nations
New York**



NICARAGUA'S CONSIDERATIONS ON THE INITIAL DOCUMENT OF
THE OPEN-ENDED WORKING GROUP ON PROGRESS IN THE FIELD
OF INFORMATION AND TELECOMMUNICATIONS IN THE CONTEXT OF
INTERNATIONAL SECURITY

First of all, we would like to thank His Excellency, the President of the Republic, Mr. Jurg Lauberm, Chairman of the on United Nations Open-ended Working Group (OEWG) on the advances in the field of information and telecommunications in the context of security international, for this effort, to deliver the first initial document. Which we consider a basis, that could lead us to the ultimate goal of adopting the report of the OEWG by consensus. However, we believe that it still needs to be improved, to get to that final point, we would like to hereby transmit our observations.

We note with satisfaction that the report highlights the special role of the OEWG in the establishment of a regular institutional dialogue on international information security under the auspices of the United Nations, the need to strictly observe the Charter of the United Nations, the danger of the development of offensive capabilities of information and

communications technology and militarization of digital space.

However, Nicaragua would like to draw your attention to its concern for the substantial issues in aspects keys of the ICTs that the draft contains:

1) We think that the text lacks serious regulation by a specialized international convention governing the modalities of application of the law to the field of ICTs, there is an overwhelming emphasis in certain branches of international law, including international humanitarian law (IHL), customary law, criminal law, as well as international human rights law.

In our view, in the current absence of a specialized international convention that would regulate the modalities of applying international law to the field of ICTs, we are, in fact, facing its "poor" applicability to this sphere. Nicaragua does not deny in principle that international law is applicable to the sphere of ICTs, however, in the initial pre-draft of the report the appropriate "formula" set out in the GGE reports of 2013 and 2015 misses its essential part about the possibility of developing, if necessary, new international legal norms to regulate the behaviour of States in the information space. In the current

situation of de facto "legal vacuum" in regulating the use of ICTs the time is ripe for such steps.

2) We would prefer not to specify methods of implementation of certain branches of law international law, including international humanitarian law, in terms of information in the absence of consensus on the fact of its applicability concerning ICTs.

3) It is unacceptable to include in the text the concept of political "attribution" of cyber-attacks, which goes against the agreements reached in the of the 2015 Group of Governmental Experts, which clearly indicate the need to support any accusation against States with appropriate technical evidence, which could be discriminatory with political purposes of certain States.

4) We stress the need to include, in addition to a major threat for the development of a peaceful environment of ICTs, the current and insufficient regulation of private sector activities in the field of ICT.

6) We also believe that the draft dilutes the role the United Nations' central ICT hub at the United Nations to delegate excessive authority in this area to regional mechanisms.

7) Nicaragua has always stated that the OEWG is inclusive and universal, unprecedented, in which small or large countries can participate in the same level, so we consider it unacceptable the attempt to link the work of the OEWG with that of the Intergovernmental Group of Experts (Nicaragua has never been a member of this Group), which we consider a closed platform of experts, where their proposals were not considered by the entire Membership of Nations United Nations, these, if considered, should be improved on the basis of the opinion of all Members States of the OEWG.

8) We cannot support the proposal to resume work of the OEWG only during the 76th session of United Nations General Assembly, which would mean practically suspending the format established that is a year and a half old.

In addition, the project also includes a proposal to extend the mandate of the GGE for the 76th period of sessions of the United Nations General Assembly, that goes beyond the scope of the OEWG.

In that regard, concerning the continuation of the negotiation process on ICTs within United Nations, we assume that it is necessary that in the report recommend the extension, for example, until the year

2025, of the mandate of the OEWG, acting on a consensus basis, entrusting it with the same aims and objectives for which it was founded and, in that way, ensuring the continuity of the Group's work in a medium-term perspective.

9) Nicaragua, a developing country, grants the maximum attention and priority to the issue of creating capacity in the field of information and communications technology (ICT). In this sense, focus on the need for developed countries to increase their technology and financial transfers to developing countries, in accordance with what is provided in the 2030 Development Agenda.