Study of the ILC on the applicability of international law in cyberspace

Rationale of the proposal

Taking into consideration that Member States have generally stated that international law also applies in cyberspace, there is still room to further clarify what this means in practice and provide common understandings among the international community. While Members States might have different approaches to its actual applicability, the International Law Commission (ILC), as a multilateral body, would be the adequate avenue for such a task.

As the “Background paper on existing UN bodies and processes related to the mandate” points out, the International Law Commission (ILC) is mandated by the General Assembly to encourage the progressive development and codification of international law, but the ILC has yet to take up the topic of ICTs and international security directly.

There are precedents of the ILC taking up a topic for its consideration in order to produce a single report expeditiously.

Recommendation for the OEWG report

Bearing in mind the need to further clarify the applicability of international law in cyberspace, the OEWG requests that the International Law Commission (ILC), through the establishment of a Working Group for that purpose, produce a study on the applicability of current international law in cyberspace, and possible gaps, for further consideration by Member States in the context of its relevant processes under the United Nations. The study would be complementary to national positions that have been or can be put forward by Member States.