UN Creates New Group on Cyberspace Issues

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The UN General Assembly First Committee in October and November adopted resolutions creating a new group of governmental experts to follow up on an earlier study that reflected a consensus within a 15-member group of experts on some of the most contentious issues of state behavior in cyberspace.

That study, issued in June, determined that current international law, including the law of armed conflict, applies to state behavior in cyberspace. (See ACT, July/August 2013.) The United States and many of its allies had long held that position, but some key countries had argued against it.

Like its predecessor, the new group of experts, which will have 20 members, has a mandate to examine “developments in the field of information and telecommunications in the context of international security.”

In a Nov. 25 interview, James Lewis, a consultant to the group of experts that produced the June report, said many people see the formation of the new group as an opportunity to maintain the momentum from the earlier one. According to the October resolution, the new group will continue to study how current international law applies to the use of cyberspace by states.

Also, for the first time, the experts will specifically study issues related to the use of cyberspace and information technologies during a conflict. Those issues are “sticking points” in determining how to apply existing international laws to cyberconflict, said Lewis, a cybersecurity expert at the Center for Strategic and International Studies. The group is to begin meeting in 2014 and present its findings to the UN General Assembly in 2015.

During her remarks at the First Committee on Oct. 30, U.S. representative Michele Markoff said the United States expects future experts groups to “use the results of [the June] report as the foundation for discussion on how international law applies to cyberspace.” The June report reflects “a growing global consensus on core ideas” to create a peaceful and stable environment in which states can operate, said Markoff, a senior policy adviser on cyber affairs at the State Department.

Wu Haitao, head of the Chinese delegation to the First Committee, said during general debate Oct. 8 that although cyberspace was not a lawless domain, existing international law does not cover all aspects of it. China and Russia submitted a draft code of conduct to the 2011 UN General Assembly. Wu said that updating of the draft has been under way and China is ready to work with other countries “to achieve an early consensus on the code of conduct.” (See ACT, November 2011.) Reports by groups of governmental experts serve as recommendations on how states should proceed on an issue and can lead to documents such as codes of conduct, which states can make a nonbinding commitment to follow, or international legal instruments.

Markoff said the United States “favors international engagement to develop a consensus on appropriate state behavior in cyberspace, based on existing principles of international law” and “cannot support other approaches that would only serve to legitimize repressive state practices.” She reiterated the U.S. position for an Internet governance model “that is people centered, bottom-up, multi-stakeholder, and transparent.”

