



ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION
CHAIRMAN'S REPORT OF THE FOURTH MEETING OF THE
OPEN-ENDED WORKING GROUP ON INTERNATIONAL LAW IN
CYBERSPACE

2-4 SEPTEMBER 2019

HANGZHOU, CHINA

The Fourth Meeting of the Open-ended Working Group on International Law in Cyberspace was held in Hangzhou, People's Republic of China on 2-4 September 2019. 10 Member States of the Asian-African Legal Consultative Organization (AALCO) participated in the Fourth Meeting of the Open-ended Working Group on International Law in Cyberspace, namely People's Republic of China, Islamic Republic of Iran, Republic of Iraq, Japan, Pakistan, State of Qatar, Kingdom of Saudi Arabia, Kingdom of Thailand, United Arab Emirates (UAE) and the Socialist Republic of Vietnam. Representatives of the International Committee of the Red Cross (ICRC) were also present as observer.

The Secretary-General of AALCO, H.E., Prof. Dr. Kennedy Gastorn, in his opening address highlighted the history and purpose of the Working Group Meetings held so far and welcomed all the delegates to the Fourth Working Group Meeting of International law in Cyberspace. He thanked the Provincial Government of Zhejiang Province and the Ministry of Foreign Affairs of China for hosting the meeting. He encouraged all delegates to actively participate in the proceedings and contribute their ideas so as to facilitate the progressive development of international law in cyberspace.

We began the programme by adopting the agenda and organization of work, which was done unanimously.

The first topic to be discussed was International Cooperation for Combating Cybercrime (issues relating to Member States' response to the questionnaire). The session began with the Special Rapporteur discussing the responses received from 11 Member States. The questionnaire, which was divided into 4 parts, was intended to be a reflection of State Practice of AALCO Member States on this subject. While there

appeared to be broad normative similarities in the replies received from the countries, there were some differences on the actual application and practice of the law of cybercrimes.

Mr. Dong Hanfei, Official from Ministry of Public Security, People's Republic of China explained the approach of China to combating cybercrimes addressing various practical realities of the subject.

Mr. Chen Liang, Deputy Director for Political Affairs, Tencent Group highlighted the steps taken by the Tencent Group in cooperating with the Chinese government to fight against cybercrimes.

In the second session, which was concerned with Application of the Principle of Non-Interference in Cyberspace, Dr. Pavan Duggal, Advocate, Supreme Court of India and Chairman, International Commission on Cyber Security Law elaborated on the advent of new technologies like Artificial Intelligence, Internet of Things and Blockchain and the new challenges they present on the applicability of the principle of non-interference in cyberspace. He was clear that notwithstanding the universal nature of cyberspace and the possibility of viewing cyberspace as a "common heritage of mankind", nothing precluded States from enacting laws regulating the use of cyberspace so as to protect and safeguard their sovereignty. Prof. Huang Zhixiong, the Rapporteur of the Working Group, thereafter, elaborated on the concept of non-intervention from an international law perspective, contextualizing it in the sphere of cyberspace.

The Second day saw the topics of Data Sovereignty, Transborder Data Flow and Data Security being dealt in detail by Dr. Hong Yanqing, Research Director, International Development Research Institution, Peking University and Mr. Albert Liu, Vice-President, Alibaba Legal Department. The distinguished panelists explained the legal, operational and technical nuances of data sovereignty, transborder data flow and data security.

The next session saw Dr. Pavan Duggal, explaining the challenges faced by States in regulating online harmful content. The last session, witnessed a discussion on Peaceful Use of Cyberspace. Ms. Margherita D'ascanio, Regional Legal Advisor and Head of Legal Department, ICRC East Asia and Mr. Du Yuejin, Vice Chairman of Chairman of Cyber Security Association of China, elaborately explained the application of IHL to cyber operations in the context of armed conflicts and the challenges being faced by States in dealing with cyberwarfare.

The delegations actively participating in the Working Group discussions, explained their domestic legislations on various aspects dealing with cybercrimes and were supportive of measures to develop the international law framework on cyberspace.

In light of the above, I would like to conclude that the discussions during the Working Group meeting indicated towards the continued relevance of the topic i.e, international law in cyberspace, especially for an intergovernmental organization like AALCO. There also seems to be a clear consensus in the meeting on the continued relevance of the Working Group and its Meetings, and that further in-depth discussions were required to finalise the way forward for the Working Group on this topic. In this context, I set forth a two-fold proposal:

1. That the Member States ought to be more active in responding to the questionnaire of the Rapporteur, circulated in furtherance of preparation of the Report on the “Special Need of the Member States for International Cooperation against Cybercrime”, as per the mandate received in the Fifty-seventh Annual Session of AALCO in Tokyo in 2018;
2. That the Member States seek the guidance and assistance of the Secretary-General to explore the drafting of a non-binding general document, a zero draft, clarifying the consensual basic principles of international law applicable in cyberspace.

I invited the views of the delegates of the Member States on the second proposal.

Support was expressed by the delegate of the United Arab Emirates and Islamic Republic of Iran. The delegate of People’s Republic of China also expressed strong support, and encouraged the Member States to provide guidance and assistance to the Secretary-General and the Secretariat, as needed, in the preparation of the document.

Accordingly, the Chair’s proposal was unanimously adopted.