Mr Chairman,

I take the floor to address an issue that is rapidly moving up the international security agenda and which is the subject of the draft resolution coordinated by the Russian Federation, entitled, “Developments in the field of information and telecommunications in the context of international security”, that of the role of cyberspace and of cyber security in international security.

I wish to congratulate the UN Group of Governmental Experts on their Report which is before the Committee for consideration. The Report is ground breaking in its recommendations and will, in our view, change the international cyber policy landscape. Its key recommendation is that existing international law is applicable to states’ use of cyberspace. This is a fundamental principle which will provide a firm foundation for all future work in relation to rule-building in cyberspace.

As the Australian Minister for Foreign Affairs, Julie Bishop, said at the Seoul Cyberspace Conference on 17 October, “Cyberspace is not lawless. Existing international law applies to States’ use of cyber. In the event of conflict, the UN Charter, the law of armed conflict, and other, related bodies of existing international law apply in cyberspace, as they do elsewhere”.

This is a simple yet fundamental proposition. Australia is happy to support the draft resolution but we note that it is silent on this key issue. Australia calls on other member states of the United Nations also to affirm that international law applies to states’ use of cyberspace. In particular, we would welcome an affirmation from the sponsors of the resolution to this effect.
The Report also makes recommendations in relation to states meeting their international obligations regarding international wrongful acts attributable to them, that states must not use proxies to commit such acts, and that states should ensure that their territories are not used by non-state actors for unlawful use of ICTs.

The Report observes that states have jurisdiction over ICT infrastructure within their territory, and that state sovereignty and the norms and principles that flow from sovereignty, apply to state conduct in cyberspace.

These statements are important in themselves. They also set a direction and begin the task of elaborating the existing framework of international law in a number of areas which are of particular interest and concern to member states.

The Report makes solid recommendations in relation to cyber confidence building measures. The Report recognises that the elaboration of international law as it applies to cyber is a long-term task. In the short-term there is a need for measures to address confidence and trust between states in cyberspace. The Report thus puts cyber confidence building measures firmly on the international security map.

Developing and elaborating measures to address problems of misperception and miscalculation to prevent escalation and possible conflict between states will have a positive and direct impact on regional and international security. Australia is working with partners in the ASEAN Regional Forum to advance this important agenda, recognising the particular mandate of regional security bodies to advance confidence building and conflict prevention.

Capacity building is now an integral element of the international dialogue on cyberspace. The Report affirms the importance of this topic. Australia has a strong interest in the developing discussion on cyber capacity building, and in facilitating capacity building with the different stakeholders in our region.

The Report makes important observations on the leading role of the United Nations in relation to issues of international security in cyberspace. At the same time, the Report observes cyberspace is a multi-stakeholder domain. Both the private sector and civil society have important contributions to make to norms, confidence building and capacity building.

The Report notes that further work is needed to develop common understandings about how international law applies to state behaviour and to states use of ICTs. It also notes that given the unique attributes of cyber, additional norms could be developed over time.

In Seoul the Australian Foreign Minister said “elaborating how international law applies is the task which the international community must now undertake”.

The draft resolution proposes that there be a further UN Group of Governmental Experts and sets out a mandate. In Australia’s view, elaborating how international law applies to states’ use of cyberspace, including in relation to armed conflict and to actions below the level of armed conflict, are key tasks of the next GGE.
The work of the UN Group of Governmental Experts is a priority for Australia. We were pleased to be invited to participate in the work of the Group and we were honoured, when called upon, to chair the Group.

We will continue to accord priority to this work. We are ready to serve in a further Group and will do so in whatever capacity we may be called upon to do so.

Mr Chairman, in closing we wish to refer to the recent Seoul Conference on Cyberspace. We congratulate the Republic of Korea for hosting this important event. The Report was referred to throughout the Conference and was heavily drawn upon in the outcomes documents. Given the significance of the Report, wider circulation should be encouraged.

Thank you, Mr Chairman.