

The Two Parallel Processes for Cybersecurity Negotiations in the UN

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Two Processes in the UN

Developments in the field of information and telecommunications in the context of international security (A/RES/73/27)

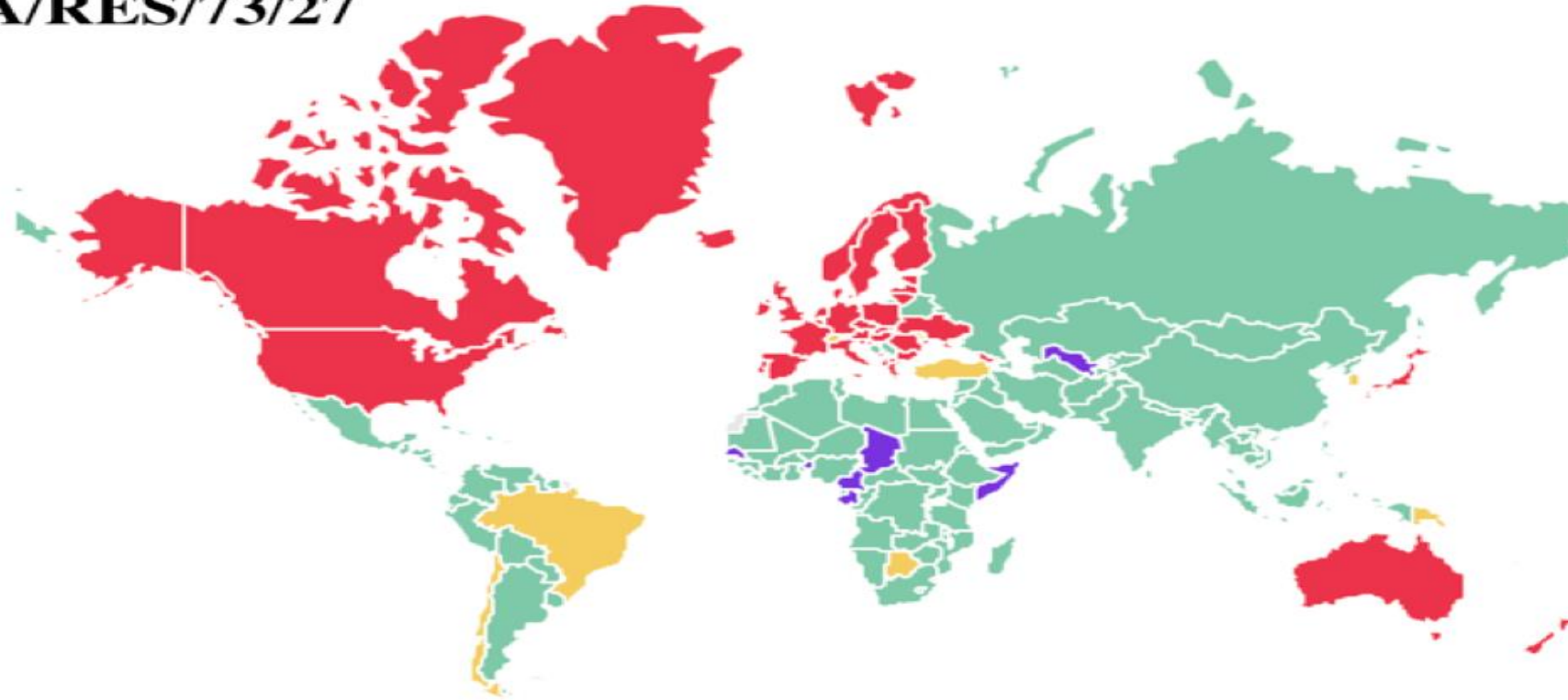
- Initiated by Russia
- Open-Ended Working Group(OEWG)

Advancing responsible State behaviour in cyberspace in the context of international security (A/RES/73/266)

- Initiated by the US
- UN Group of Governmental Experts(UNGGE)

Russian Initiative: OEWG

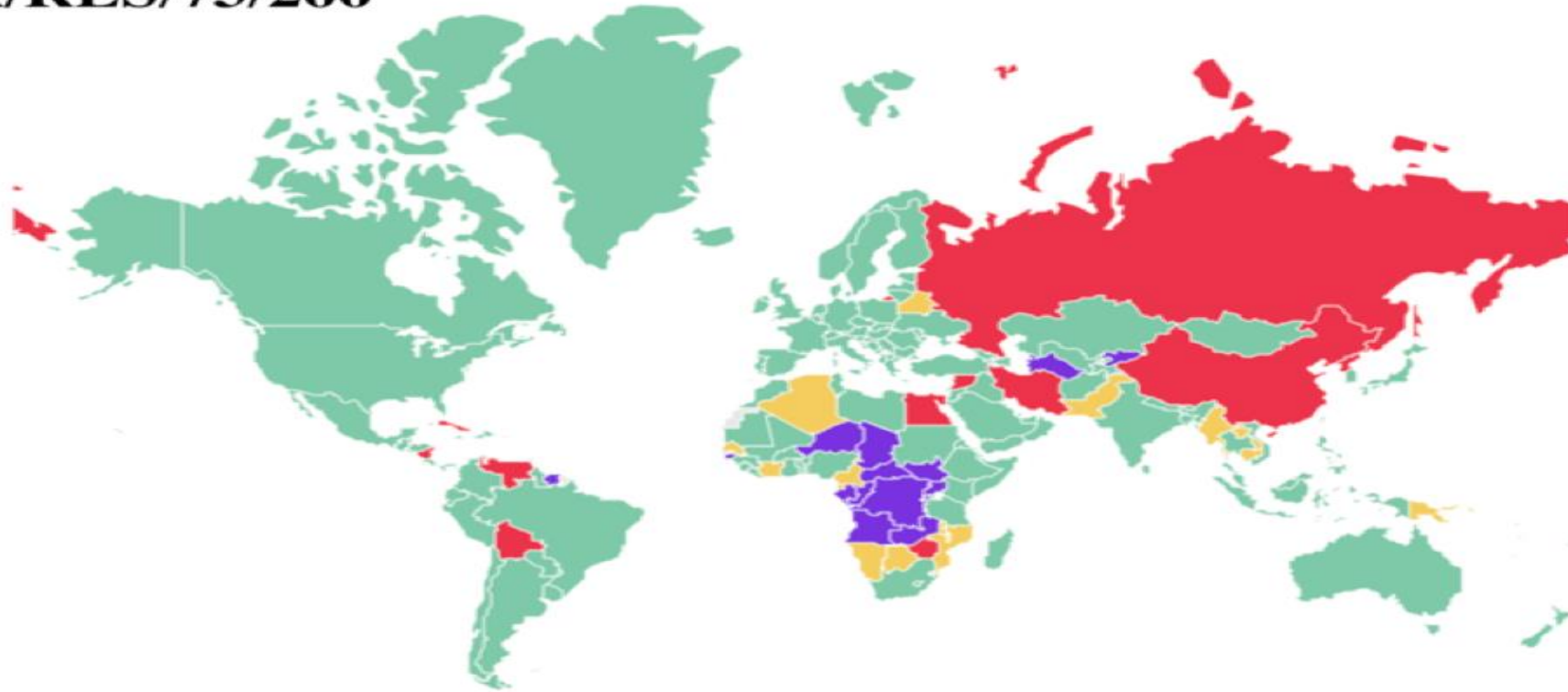
A/RES/73/27



Yes No Abstained Didn't vote

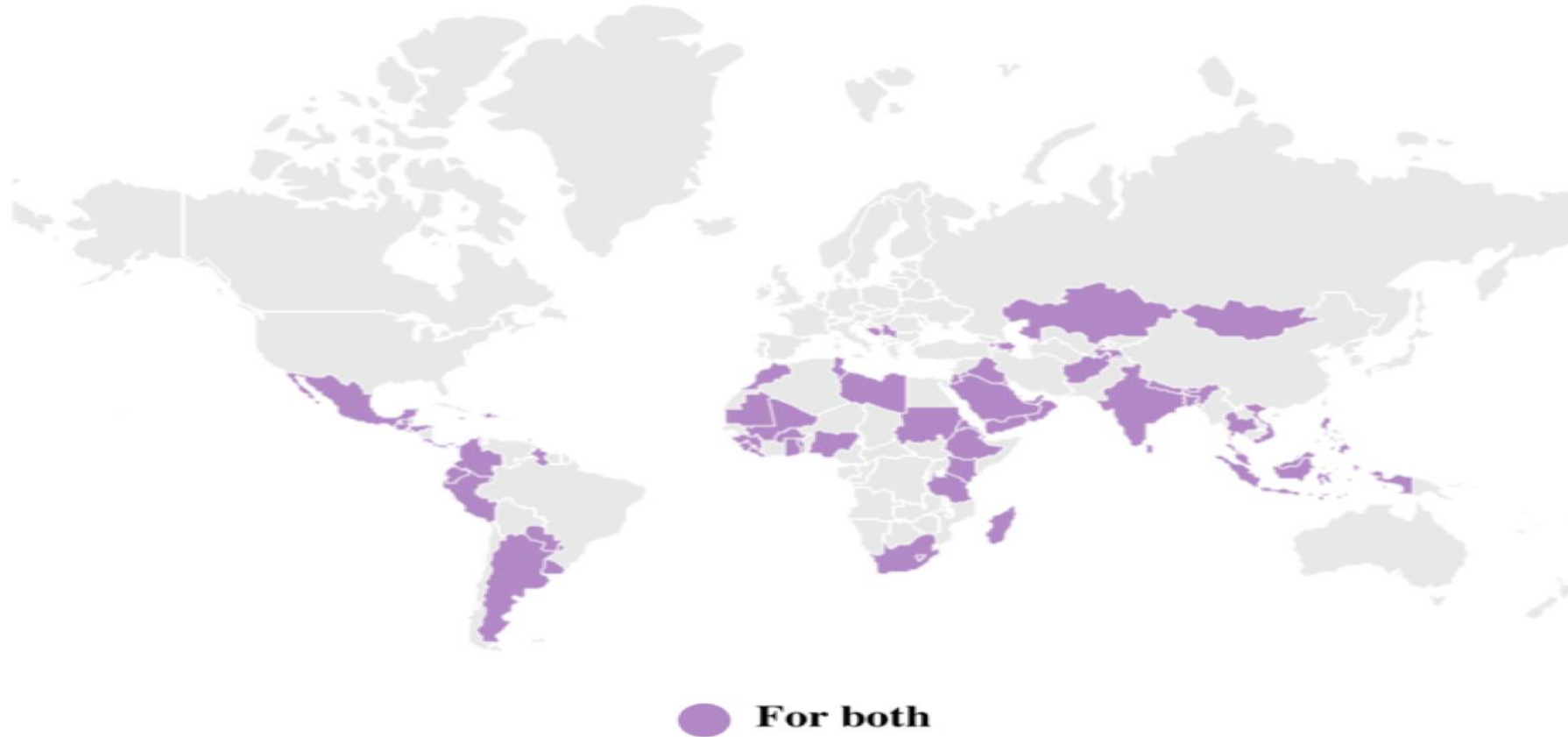
US Initiative: GGE

A/RES/73/266



● Yes ● No ● Abstained ● Didn't vote

Russian and the US Initiatives



Two Processes in the UN

OEWG

- Open to all UN Member States
- Intersessional consultative meetings: businesses, non-governmental organizations, and academia
- Report to the UNGA at its 75th session (2020)

GGE

- 25 UN Member States
- Informal consultative meetings: all non-GGE UN Member States
- Consultations with relevant international organization
- Report to the UNGA at its 76th session (2021)

Mandate: Format

Russian Resolution (para. 5)	US Resolution (para. 3)
<p>Decides to convene, beginning in 2019, with a view to making the United Nations negotiation process on security in the use of information and communications technologies more democratic, inclusive and transparent, an open-ended working group acting on a consensus basis, to continue, as a priority, to further develop the rules, norms and principles of responsible behaviour of States listed in paragraph 1 above, and the ways for their implementation...</p>	<p>Requests the Secretary-General, with the assistance of a group of governmental experts, to be established in 2019 on the basis of equitable geographical distribution, proceeding from the assessments and recommendations contained in the above-mentioned reports, to continue to study, with a view to promoting common understandings and effective implementation, possible cooperative measures ...</p>

Mandate: Objectives

Russian Resolution (para. 5)

to continue, as a priority, to further develop the rules, norms and principles of responsible behaviour of States listed in paragraph 1 above, and the ways for their implementation; if necessary, to introduce changes to them or elaborate additional rules of behaviour; to study the possibility of establishing regular institutional dialogue with broad participation under the auspices of the United Nations; and to continue to study, with a view to promoting common understandings, existing and potential threats in the sphere of information security and possible cooperative measures to address them and how international law applies to the use of information and communications technologies by States, as well as confidence-building measures and capacity-building and the concepts referred to in paragraph 3 above, and

US Resolution (para. 3)

to continue to study, with a view to promoting common understandings and effective implementation, possible cooperative measures to address existing and potential threats in the sphere of information security, including norms, rules and principles of responsible behaviour of States, confidence-building measures and capacity-building, as well as how international law applies to the use of information and communications technologies by States, and ... including an annex containing national contributions of participating governmental experts on the subject of how international law applies to the use of information and communications technologies by States

Mandate: Report & Consultation

Russian Resolution (para. 5)	US Resolution (para. 3, 4, 5)
<p>to <u>submit a report</u> on the results of the study to the General Assembly at its seventy-fifth session, and to provide the possibility of holding, from within voluntary contributions, <u>intersessional consultative meetings with the interested parties</u>, namely business, non-governmental organizations and academia, to share views on the issues within the group's mandate</p>	<p>to <u>submit a report</u> on the results of the study, <u>including an annex containing national contributions of participating governmental experts on the subject of how international law applies to the use of information and communications technologies by States</u>, to the General Assembly at its seventy-sixth session (para. 3)</p> <p>Requests the Office for Disarmament Affairs of the Secretariat, through existing resources and voluntary contributions, on behalf of the members of the group of governmental experts, to <u>collaborate with relevant regional organizations, such as ... the European Union ... the Organization for Security and Cooperation in Europe and the Regional Forum of the Association of Southeast Asian Nations</u>, to convene a series of consultations to share views on the issues within the mandate of the group in advance of its sessions; (para. 4)</p> <p>Requests the Chair of the group of governmental experts to <u>organize two two-day informal consultative meetings, open-ended so that all Member States can engage</u> in interactive discussions and share their views, which the Chair shall convey to the group of governmental experts for consideration; (para. 5)</p>

Members of the 6th GGE

Africa	Kenya, Mauritius, Morocco, South Africa
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Asia	China, Japan, Jordan, India, Indonesia, Kazakhstan, Singapore
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Eastern Europe	Estonia, Romania, Russia
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Latin America and the Caribbean	Brazil, Mexico, Uruguay
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Western Europe and others	Australia, France, Germany, Netherlands, Norway, Switzerland, UK, US
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OEWG v. GGE: Way Forward

- Russia and China and others do not seem to agree to the application of international law, including the rules on self-defense, counter-measures and international humanitarian law, to cyberspace.
 - Their ostensible reasons are the worry or possibility of the militarization of cyberspace.
 - Their real reasons may be inferiority in technological advancement against the US and others, although China is catching up or overtaking the US in the area of AI, etc.
- The US and others do not seem to agree to the negotiation of *lex specialis* for cyberspace especially in the UN.
 - Their real concerns include the recognition of more stronger and powerful control by States over cyberspace to the detriment of human rights and international cooperation.
 - They seem to be worried about their technological advancement may be restricted by the newly clarified rules in any form of new treaties.

OEWG v. GGE: Way Forward

- Two parallel processes:
 - Need to work together in mutually cooperative manner.
 - Possibility of Member States to go forum shopping depending on issues
 - Possibility of making the negotiation process for cybersecurity more difficult
 - Difficulty for reaching consensus among 193 Member States in the OEWG
 - The 5th GGE failed to reach consensus among its 25 members.

OEWG v. GGE: Way Forward

- In order for the two processes to be complementary rather than mutually exclusive, labour division might be needed:
 - The GGE, being more restricted in membership, would be more specialized by focusing on those issues, which were difficult to compromise in the past, such as setting a legal framework for responses to cyber incidents with low thresholds of harm when ICT infrastructures are involved.
 - The OEWG, being open and broader in membership, would consider a framework for governmental control of ICTs while ensuring the protection of human rights in the cyber context.

Dates for the GGE and OEWG sessions

2019	3-4 June	Organisational meeting of the OEWG
	9-13 September	First substantive session of the OEWG
	October	Annual session of the First Committee
	2-4 December	Multistakeholder informal consultation for the OEWG
	5-6 December	Informal consultation of the GGE for non-members of the GGE
	9-13 December	First session of the GGE
2020	10-14 February	Second substantive session of the OEWG
	March	Second session of the GGE
	July	Final substantive session of the OEWG
	August	Third session of the GGE
	October	Annual session of the First Committee
2021	May	Final session of the GGE
	October	Annual session of the First Committee