



**PROGRESS REPORT SUBMITTED TO THE  
AFRICAN UNION PEACE AND SECURITY COUNCIL ON DEVELOPING A COMMON AFRICAN POSITION  
ON THE APPLICATION OF INTERNATIONAL LAW IN CYBERSPACE  
24 AUGUST 2023**

**I. Introduction**

1. On Wednesday, 9 November 2022, at its 1120th meeting, the African Union Peace and Security Council (PSC) adopted communiqué PSC/PR/COMM.1120.1 (2022) on the Inaugural Engagement between the Peace and Security Council and the AU Commission on International Law (AUCIL), which considered the question of developing a common African position on the application of international law in cyberspace.

2. In this communiqué, the PSC underlined the “urgent need for a Common African Position on the application of international law on cyberspace, as well as the need for Africa to actively engage in the process of articulating the rules of international law in this regard.” The PSC also requested the “AU Commission on International Law to prepare a draft statement on the Application of International Law to Cyberspace to be submitted to Council for consideration.”

3. In addition, the PSC requested the “AU Commission, working in close collaboration with the AU Commission on International Law, to organize consultations with relevant stakeholders, on the application of international law to information and communication technologies and cyberspace and to provide the required technical support to Member States.”

4. This progress report is submitted to the PSC to update the Council on the steps undertaken to execute the aforementioned communiqué.

**II. Progress Achieved towards preparing a Common African Position on the Application of International Law in Cyberspace**

4. The Special Rapporteur on International Law and Cyberspace prepared a preliminary draft of an African Statement on the Application of International Law in Cyberspace. This statement was submitted to the AUCIL during its 22nd ordinary session, which was held at the AU headquarters in Addis Ababa from 6-23 May 2023. The AUCIL adopted and endorsed, upon first reading, the draft African Statement on the Application of International Law in Cyberspace prepared by the Special Rapporteur. The draft statement is attached.

5. The AUCIL also recommended, in accordance with PSC communiqué PSC/PR/COMM.1120.1 (2022), to refer the draft statement to the PSC for its consideration. In addition, the AUCIL recommended the establishment of an expert-level working group composed of representatives of the Member States of the PSC, members of the AUCIL, and the AU Commission to review the draft statement adopted and endorsed by AUCIL in order to facilitate its final adoption by the PSC.

### **III. Progress Achieved on Providing Technical Support to Member States and Organizing Consultations with**

6. In accordance with this communiqué, the AUCIL, through the Special Rapporteur, reached out to several partners to explore opportunities for organizing a program designed to apprise representatives of Member States of the latest developments in the field of the rules of international law applicable to cyberspace, with a view to providing technical support to Member States in this area.

7. The Government of Canada expressed a keen interest in cooperating with AU Commission and AUCIL in organizing and sponsoring a capacity building program for representatives of AU Member States on the question of the rules of international law applicable in cyberspace and that govern the use of information and communication technologies.

8. On the basis of the consultations with Government of Canada, a three-part capacity building program was co-organized by AUCIL, the Office of the Legal Counsel, and Global Affairs Canada. The first segment of this capacity building program was held online on 29-30 March 2023, the second segment was held in-person at the AU Headquarters in Addis Ababa on 7-9 June 2023, and the third segment was held in-person at the AU Permanent Observer Mission to the United Nations in New York on 19-21 July 2023.

9. The speakers and trainers in this capacity building program were among the leading scholars and experts in the field of international law and cyberspace. These speakers and trainers were affiliated with the following governments, international institutions, and universities:

- United Nations
- United Nations Institute for Disarmament Research
- Government of Canada
- Government of Kenya
- Government of Brazil
- Organization of American States
- Oxford University
- University of Pretoria
- University of Johannesburg
- University of Geneva
- Leiden University
- University of Reading
- United States Naval War College
- Cyber Law International
- The Oxford Process on International Law Protections in Cyberspace
- NATO Cooperative Cyber Defence Centre of Excellence
- Global Forum for Cyber Expertise

10. Approximately 200 participants attended the capacity building program. These participants were primarily representatives and experts from AU Member States. These included officials specialized in the area of cyberspace from the capitals of AU Member States, delegates from AU Member State missions to the AU in Addis Ababa, and delegates from African permanent missions to the UN in New York. In addition, representatives of various AU organs and departments of the AU Commission participated in the capacity-building program, including the Office of the Legal Counsel, the Peace and Security Council Secretariat, and the Committee of Intelligence & Security Service of Africa (CISSA).

11. To ensure the broadest possible participation of various African stakeholders, the AUCIL also invited leading African scholars of international law to participate in the capacity building program, and to offer their views on the draft AU statement on the application of international law in cyberspace. The following scholars attended the capacity building program: Professor Makane Moïse Mbengue (Senegal), Professor Dire Tladi (South Africa), Professor Mamadou Hébié (Burkina Faso), and Professor Martha Bradley (South Africa).

#### **IV. Recommendations on the Way Forward:**

12. The following recommendations are respectfully submitted to the PSC for its consideration:

- Establish an expert-level working group to review the draft African statement adopted and endorsed by AUCIL, in order to prepare it for adoption by the PSC as a Common African Position on the application of international law in cyberspace.
  
- This expert-level working group should consist of experts from the Member States of the PSC. In addition, the PSC should consider opening the group to AU Member States that wish to participate in the process. It is recommended that the PSC consider inviting the AUCIL Special Rapporteur, other AUCIL members, and the AU Commission (including African experts in this field) to join the working group.
  
- Establish a timeframe for the expert-level working group to complete its mandate.

2023-08-24

# Communiqué of the 1171st Meeting of the Peace and Security Council, Held on 24 August 2023, on Updated Briefing on the Development of the Common African Position on Cyber-Security in Africa.

Peace and Security Council

African Union Commission

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