From: The Netherlands (Simon van Merkom, Ministry of Economic Affairs & Climate Policy)

To: ITU Secretariat (preetam.maloor@itu.int and sadhvi.saran@itu.int)

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**Initial additional comments by The Netherlands to the draft Guidelines on utilization of the GCA following the Open Consultation on 23 April.**

Regarding the draft Guidelines on Utilization of the GCA that were discussed in general at the Open Consultation via video conference last Thursday 23 April The Netherlands would like to stress the importance of getting the guidelines right on such an important issue and this includes allowing a proper process to take place. Regarding the current situation, the Netherlands would like to express a major concern and some more detailed comments.

The Netherlands indeed is of the opinion that the process on developing the Guidelines at this moment has been speeded up in a way that it is difficult to work towards a consensus outcome, if not sufficient time is allowed to provide constructive, useful and effective feedback on the current document. There are indeed still a lot of concerns to answer, including on the remits of the guidelines, the potential duplication of work and the exact role of the ITU in its implementation. This can be derived from the contributions made by several members and the following comments voiced during the Open Consultation. Also because the Open Consultation was done via video conference, a medium that does not easily facilitate a thorough discussion on issues on which views highly differ, and nor has the time allowed for an extensive discussion on a 25-page long document.

We therefore believe that the draft Guidelines need to be discussed more in depth before submitting to Council.

The opportunity to provide detailed comments is welcomed but the deadline provided for written comments is unfortunately too short to allow for constructive comments to make the guidelines agreeable. In addition, we would like to add that the time allowed to provide written comments is also not sufficient to carry out a thorough consultation of our colleagues. For us, this is even more complicated that the instructions were sent on Friday evening (24 April) and that 27 April is a bank holiday in the Netherlands. But in general and without this very specific situation of ours, we think this time frame is not suitable to provide extensive, complete and useful comments.

Having read the current draft text, read the contributions and heard the discussion, and given the narrow timeline, we are worried that a new text will not address all the concerns and that it might still not be agreeable for us.

We therefore urge the Secretariat to reconsider the time provided for written inputs, otherwise we risk being in a difficult situation where the guidelines will not receive our support.

As already expressed in our submission in February, the Netherlands believe that the 5 pillars of the GCA are still valid and that the ITU should focus on greater coordination within and outside the UN instead of trying to duplicate already existing work, processes and efforts to ensure the implementation of the GCA.

As said, we have some initial comments to share with you but we hope that the timeline for the development of the guidelines will be rethought in order to achieve a successful process.

* In several clauses the wording is used which reads as the ITU is the “sole”, “leading”, “key” organization or the like which implies that ITU is leading the global process. If ITU is an important organization and has an important role but it is not the only one, and so the current draft guidelines fail to recognize the role of other organisations, other UN bodies/fora and other SDOs and therefore do not reflect the reality.
* Some proposed implementation guidelines would interfere or duplicate on-going processes or other mechanisms such as the OEWG or the GGE, that are currently discussing responsible state behavior in cyberspace, the work of UNODC on cybercrime, just to name a few within the UN. Furthermore the current drafting guidelines are jumping up on the conclusion of the work being carried out as follow-up to the High Level Panel on Digital Cooperation (guideline 6.17.b). In addition, there are also ongoing initiatives outside the UN that would merit further attention. We deplore that the current draft do not reflect on all this useful work that is taking place outside the ITU and instead we fear that some proposals might just duplicate or even worth risk being counterproductive to ongoing discussions.
* The way the Budapest Convention is presented might make people believe it is an outdated instrument. It is, however in our view, the best model for countries to develop national legislation, it provides a strong standard for cyber legislation, it has shown to be a great tool for international capacity and cooperation.
* In pillar 5 inter-organizational coordination is not included. There are indeed multi-stakeholder platforms outside of the UN that are contributing to international cooperation with which cooperation is extremely important. The importance and necessity of such inter-organizational cooperation should be included in general throughout the document and in particular in the recommendations under Pillar 5.