

In the name of God, the Most Compassionate, the Most Merciful

Explanation of Position

by the representative of the Islamic Republic of Iran

Before

**the Reconvened Concluding session of Ad Hoc Committee on Elaboration of
a Convention on Countering the Use of ICT for Criminal Purposes**

9 August 2024-New York

Madam Chair.

Please allow me to sincerely express our gratitude to you for the Excellent leadership of the Committee, I also would like to thank Tahar for his dedication and the secretariat for its commendable efforts in convening the meetings of the Committee.

Bearing in mind the core mandate of the Ad hoc Committee as per resolution 74/247 which is “to elaborate a comprehensive international convention on countering the use of information and communications technologies for criminal purposes”, we actively engaged in the process of elaboration of the convention in good faith while aspiring to provide the international community with a sound and robust international legal framework to counter crimes committed via information and communications technologies, to bring criminals to justice and to protect our children, public morals and society in the face of the exponentially growing criminal activities via misuse of ICT. Although achieving consensus on all provisions of the convention was not possible, the very conclusion of the work of the ad hoc committee having the convention as its outcome is of immense importance.

Madam Chair.

We reiterated our serious concerns regarding certain provisions of article 14 which may be misinterpreted by few as to allow for exception in fighting the heinous crimes of child sexual exploitation. Therefore, we requested for deletion of such provisions so as to ensure zero tolerance policy in countering this horrendous crime

and to fully and effectively protect our children. In our view, these articles do not prejudice measures taken by law enforcement and judicial authorities and other relevant national authorities who are entrusted with the task related to fighting the crimes in question in accordance with domestic laws. Hence, there was no need to add the term “without right” in articles 14 and 16, however, where domestic laws a state party include such term, it should be interpreted only to allow for realization of the purpose of the articles in fighting child sexual exploitation, for example the lawful exercise of functions of law enforcement authorities in this regard.

Along same lines, we strongly continue to oppose any other sort of exception in fighting child sexual exploitation. The inclusion paragraph 3 of article 14 is in flagrant contravention of the article and the purpose of the convention. There is no difference on the negative impact of unreal materials depicting child sexual exploitation, such materials normalize criminal conducts against children and is actually conducive to the commission of child sexual exploitation. Therefore, the artificial distinction between real and unreal material is superfluous. Moreover, such exceptions run counter to the relevant definition stipulated in the Optional Protocol to the Convention on the Rights of the Child to which more than 170 states are party and which does not recognize such exceptions to materials depicting child sexual exploitation.

We could not accept these exceptions in good conscience and that is why we requested a vote on these matters too, with the sole purpose of upholding the rights of our children, realization of their best interest and to vigorously and without exception fight against child sexual exploitation. On article 16, we note that the conducts, conditions, and requirements referred to in the said article the offences referred to in the said article are specified for the purpose of addressing a certain area of criminal activities, it is only a minimum area of criminalization, as such, taking into account paragraph 6 of article 16, it is understood that nothing in the said article could in any manner prejudice the criminalization of intimate images or other obscene material and domestic laws of my country in this area.

Madam Chair,

The Islamic Republic of Iran is party to many international human right instruments and attaches great importance to respecting human rights and dignity of all. Given the discussions on human right provisions of the convention, we would like to touch upon a few technical points. The very nature of the convention and the purpose envisaged for it required a technical approach akin to that employed in

drafting the UNCAC and thus to avoid the duplication of work, avoid addressing matters that in principle fall within the purpose and scope of human right treaties and to prevent potential fragmentation of international law in this respect. The UNCAC, UNTOC and other relevant treaties to which nearly all UN Members are party or signatory, do not include human right provisions.

This established practice of UNCAC and UNTOC in not involving in human rights throughout their elaboration, do not prejudice the importance of human rights obligations rather it signifies the very simple fact that criminal justice conventions focus on specific technical aspect of fighting crimes, and that it remains for other inclusive intergovernmental bodies to address human rights obligations in this area. The rationale for such practice in elaboration of UNCAC and UNTOC had been also to avoid politicization and selectivity in this area which could undermine international cooperation in fighting crimes. That has also been the rationale of my delegation on matters that are not within the purview of the convention. As such, the voting on this area was requested on technical grounds as elaborated above and does not prejudice our commitment to respect human rights and dignity for all.

Madam Chair,

The convention has significant achievements and includes important provisions that need to be fully taken into account. In this regard and among others, we would like to recall article 5 of the convention on protection of sovereignty. As we say in legal parlance, *par in parem non habet imperium*, equals have no sovereignty over each other, this is the bedrock of international relations and international law. Many principles of international law are corollaries of this highly important concept. That is why it has been the practice of the relevant conventions to include such provisions to ensure respect for sovereignty of Member States and their exclusive jurisdictions. That being said, we underline that measures in preventing and combating the use of ICT for criminal purposes should be in compliance with the fundamental principles of sovereign equality, non-intervention, and territorial integrity. Nothing in the said convention could be misused as a pretext to encroach upon these highly cherished principles of international law.

Effective implementation of the purpose of the convention which is, *inter alia*, to strengthen measures as well as to promote, facilitate and strengthen international cooperation in preventing and combating cybercrime necessitate having due regard to the challenges and impediments that hinder international cooperation and ability of states in fighting these crimes. The promulgation and application of unilateral coercive measures continue to impede international cooperation and capabilities of

affected states in countering the crimes in question. Such unlawful measures, which are flagrant violation of the fundamental principles of international law and the Charter of the United Nations, should be duly addressed and responded to so as to ensure that the important purposes of the convention are effectively implemented.

We underline that the provision of technical assistance and capacity building to developing countries should be upon request and based on the needs and priorities of requesting countries; such provision should aim to support the efforts of developing countries in fighting the use of ICT for criminal purposes; along same line, We underscore that the United Nations General Assembly through relevant resolution has called for action to be taken to enhance the ability of developing countries to benefit from science, technology and innovation and address the major impediments they face in accessing new and emerging technologies. In this respect, the inclusion of transfer of technology in the convention is as an important step to bridge digital divide among countries and to address barriers that developing countries encounter in accessing technology and to respond more effective to crimes committed via ICT.

Madam Chair.

As final observations, we would like to mention that we maintain our reservations and objections on certain provisions and terms, in particular those that were voted, among other, in articles 6.2, 14, 16, 24 and 40(22). It is understood that the provisions of the convention would be interpreted by my country consistent with its domestic laws and national documents as well as the religious, legal, cultural, and social specificities and values of the Islamic Republic of Iran. Nothing in the convention could be interpreted as to prejudice such domestic framework, values and specificities nor could it prejudice the exercise of sovereign rights and prerogatives of my country in accordance with its domestic laws. Our vote regarding certain provisions of the convention does not prejudice any future action my country may deem appropriate in accordance with its domestic laws, priorities, and values as to the ratification, acceptance, approval of or accession to the present convention.

I thank you.