**Explanation of Position of the United States**

**Ad Hoc Committee, August 10, 2024**

Thank you, Madam Chair. And congratulations on the success of your hard work. My thanks and congratulations as well to Tahar and to the secretariat.

Cybercrime is one of the most pervasive challenges of our time impacting citizens of the United States and every country in the world every single day. This is not a threat any of us can battle alone.

Our committee has adopted a Convention against Cybercrime that reflects universal values and U.S. interests, including focused criminalization provisions, robust and flexible provisions on technical assistance, and strong provisions to safeguard human rights that are unprecedented in a UN criminal justice convention.

This compromise text, adopted by consensus, represents the hard work of many member states, informed by countless civil society, industry, and other stakeholder views, and the United States hopes that it reflects a durable commitment to combatting cybercrime under a rights-respecting framework.

This convention will complement a wide range of actions the United States is already undertaking to fight cybercrime. This includes global technical assistance and capacity building and intensive multilateral engagement, including through U.S. leadership in the Counter Ransomware Initiative. It also can include economic sanctions, which are a lawful and legitimate tool for promoting accountability.  And importantly this convention will provide a new forum in which to engage directly with other States, even when our values and legal approaches differ.

It also goes further than any existing international instrument through its groundbreaking provisions to protect children online, including through the criminalization of the solicitation and grooming for the purpose of committing a sexual offense against a child. And this convention will require parties to criminalize the non-consensual disclosure of intimate images for the first time in any international instrument, giving us a key tool to combat this growing international harm.

In addition, any party that tries to invoke the convention to suppress human rights or fundamental freedoms, including the freedoms of expression, conscience, opinion, religion or belief, peaceful assembly, and association will be transgressing their binding legal obligations under the convention.

Let us be clear: the United States will continue to strongly condemn and work to combat the persistent human rights abuses that we see around the globe by governments who misuse and abuse cybercrime laws and other cyber-related statutes and tools to target human rights defenders, journalists, dissidents, and others. This convention unfortunately cannot prevent such abuses, but a Party may not invoke this convention to facilitate them. And the convention includes safeguards and protections unprecedented in a UN criminal justice convention.

This convention will empower Parties with a new tool to say no to requests for mutual legal assistance that discriminate on the basis of sex, race, language, religion, nationality, ethnic origin, or political opinion.

And this convention will require critical safeguards for the use of domestic powers, including when providing mutual legal assistance to other Parties. Parties must ensure that the law enforcement tools they will use to help each other combat cybercrime are constrained by conditions and safeguards that protect human rights, such as judicial review and a right to effective remedy. A Party that does not provide for such safeguards when they invoke this convention will be contravening international law, and the United States will continue to condemn the unlawful suppression of human rights in the strongest possible terms.

On the transfer of technology, we underscore our position that trade language adopted by the UN Ad Hoc Committee, has no relevance for U.S. trade policy, for our trade obligations or commitments, or for the agenda at the World Trade Organization, including discussions or negotiations in that forum. While the UN and WTO share common interests, they have different roles, rules, and memberships. Similarly, this includes calls to adopt approaches that may undermine incentives for innovation, such as technology transfer that is not both voluntary and on mutually agreed terms.

As to the language adopted in paragraph 1 of article 60, the United States understands and interprets paragraph 1 of article 60 to permit the application of other international agreements and arrangements only to the extent permitted by customary international law as reflected in the Vienna Convention on the Law of Treaties.

On the matter of interpretive notes, the United States understands Footnote 1 of the Convention to provide an acknowledgment that the interpretive notes referenced therein are incorporated, separately, into the Report of the Ad Hoc Committee, and that Footnote 1 does not constitute an endorsement, adoption, agreement, or other action of the adopting States concerning those interpretive notes. Further, the interpretive notes are not understood to have any binding effect, regardless of any language used therein that might otherwise be understood as binding.

Madame Chair, we congratulate you on the success of your leadership in this process, as well as your successful return to retirement.

We thank you, Tahar, all of the Vice-Chairs and coordinators, and the Secretariat for your tireless work to bring together a wide range of views and seek to find consensus when we found ourselves at impasses. Your team’s patient guidance and assistance helped us find our way to adoption of the convention.

Our attention now turns to the hard work of an inclusive and transparent implementation process that ensures states abide by international law and respect human rights. And, as we have for many years, the United States stands ready to facilitate implementation and international cooperation, including through technical assistance and capacity building.

We welcome the Committee’s adoption of the UN Convention Against Cybercrime as a rights-respecting criminal justice instrument for the 21st century and beyond.