

**Statement by the Representative of Japan
at the Fourth Session of the Ad Hoc Committee
to Elaborate a Comprehensive International Convention
on Countering the Use of Information and Communications Technologies
for Criminal Purposes
(Agenda Item 5)**

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Thank you, Madam Chair. We are again encouraged by the Chair's proposal for the general provisions, which includes concise provisions on the scope and the purposes, a provision on the protection of sovereignty adhering to existing legal instruments, and an article to ensure the implementation of the Convention in line with our human rights obligations. In light of this, there are some points we would like to discuss carefully.

Madam Chair,

With regard to **Article 1**, Japan supports the draft from the standpoint that it is consistent with our discussion of the first session and that we support a concise and clear statement of purpose.

The scope of application should be clearly defined in line with the provisions of UNCAC and other existing frameworks. In this respect, the Chair's proposal for **Article 3** is generally supportable, although we need to consider the details of the wording on the basis of the substantive provisions of this Convention. In particular, the proposal that the Convention shall cover the "detection" of cybercrime is not based on the discussions of the first session. As for paragraph 2, in order to promote international cooperation, Japan believes that the collection of evidence in electronic form could be the object of international cooperation beyond crimes stipulated in the Convention, subject to appropriate safeguards. Regarding paragraph 3, when an act is criminalized, there must be at least a risk of harm to the interests to be protected. It is not justifiable for a state to restrict the actions of private individuals with punishments when this is not the case. If a

state criminalizes and restricts acts even when no damage or harm to individual rights or interests is recognized, it should specify the acts to be punished. Thus, we oppose paragraph 3, which stipulates principles that depart from the traditional approach to criminal law.

In terms of **Article 4**, we support the proposal based on UNCAC.

Regarding **Article 5**, despite the importance of combatting cybercrime, measures to combat cybercrime must not be detrimental to the principle of due process or impose unjustified restrictions on human rights. Such safeguards are preconditions for successful international cooperation. Therefore, Japan supports the inclusion of general provisions on the protection of human rights and fundamental freedoms, including freedom of expression, and respect for the rule of law. Japan also welcomes and supports the proposal for a provision that requires efforts on gender mainstreaming and consideration of vulnerable groups, based on previous discussions.

I thank you, Madam Chair.