

**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 6)**

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Thank you, Madam Chair. We welcome the Chair's proposal for procedural measures and law enforcement adheres to the existing legal instruments in most of the provisions. Now I would like to comment on each cluster.

Madam Chair,

All three articles in **Cluster 1** are essential provisions for this Convention, although we need to elaborate on the wording, focusing on those that differ from existing treaties. For example, **Article 40**, paragraph 2, subparagraph (c) is inappropriate because State's jurisdiction may overly extend beyond its territory once an offense under this Convention has been committed. Subparagraph (e) also requires careful consideration since the word "involve" is vague and the scope of jurisdiction under subparagraphs (a), (b), and (d) may be sufficient.

Article 41 needs to be revisited with regard to procedural measures as a whole, but we support the Chair's proposal at this stage. As a precondition for promoting and strengthening international cooperation, we can consider applying the powers and procedures to criminal investigations and proceedings into crimes committed using a computer system, as well as to the collection of electronic evidence of those criminal offenses.

Also, Japan generally supports the Chair's proposal on **Article 42**. When granting powers regarding criminal investigations or proceedings to competent authorities, it is necessary

to establish provisions confirming that each Member State should ensure adherence to universal legal principles such as the principle of proportionality and the principle of “no punishment without law” (*Nulla poena sine lege*), as well as the requirement of law enforcement measures and other safeguards.

Madam Chair,

As for **Cluster 2**, Japan generally supports establishing such provisions as **Articles 43 through 48** by referring to existing frameworks. However, Article 46, paragraph 1(b) needs to be carefully examined because exercising jurisdiction over the location of a data storage medium is a potential violation of sovereignty. In addition, we oppose **Article 49** because the admissibility of evidence is not necessarily affected by the mere fact that the evidence is collected for cybercrime investigations and proceedings, and it is necessary to maintain a balance with the treatment of evidence other than electronic evidence. The matter should be left to each State’s domestic law and judicial rulings.

Madam Chair,

Regarding **Cluster 3**, Japan generally supports **Article 50**, although our final response will depend on which offenses are ultimately required to be criminalized under the Convention. However, it would be unreasonable to require the adoption of legislative measures on confiscation even for crimes that do not result in proceeds subject to confiscation. Thus, we should specify the scope of application by, for instance, limiting predicate crimes to those aimed at achieving economic gain.

As for **Articles 51 through 54**, Japan supports the Chair’s proposal based on UNTOC and UNCAC. However, Article 53, paragraph 2, and Article 54 are repetitive. One of the two articles should be retained.

In addition, we can generally support **Article 55**, which uses the agreed language of UNTOC. However, it is not appropriate to include provisions such as paragraph 1(a)(iii), that require the measures be taken to encourage the supply of information on all offenses, taking the opportunity of the commission of a crime established in accordance with this

Convention. The difference with UNTOC, whose main objective is to combat organized crime, should be taken into account.

Thank you, Madam Chair.