



In the name of God, the Compassionate, the Merciful

**Statement by the Representative of the Islamic Republic of Iran
Before the Ad hoc Committee for Elaboration of the Convention on
Countering the Use of ICT for Criminal Purposes
Agenda Item (4): Objective and Scope of the Convention
Agenda Item (6): Preliminary exchange of views on key elements of the
convention**

(28 February-11 March 2022, New York)

Madam Chair.

I would like to express my gratitude for your dedicated and abled leadership of the session. We have made good progress thus far under your leadership.

Madam Chair.

We have reflected our position on the draft objective, structure, and elements of the convention, both in the form of statement and concrete written proposals. Reaffirming our position and proposals, with your indulgence, we would like to once again provide our technical views, to be accommodated and reflected in the draft document.

During this session and even before that we heard from several delegations that UNTOC and UNCAC should be considered in elaboration of the present convention. The practice of the international community in elaboration of these conventions was to address crimes in a technical context and therefore human rights was not included in the objectives of the conventions nor is there any overarching clause in their provisions on human rights. The relevant references are mostly those reflected in the protocols of UNTOC which specifically deals with the situation and rights of victims of trafficking in persons. Currently, 190 and 189 Member States are party or signatory, respectively, to the UNTOC and UNCAC. The status of these conventions at the international level, well evinces that the technical approach taken by the international community in the elaboration of these two international instruments could not in any manner be construed as being at variance with human rights. The same technical approach should be followed in



elaboration of the present convention, hence, it is not necessary to include the proposal on human rights in the objectives of the convention, for the reasons mentioned above and because this is not a human right convention. As a way forward and to accommodate views of other Member States, we propose to move this part to subsection II titled “elements to include within the scope of the convention”.

As was stressed by many Member States, we emphasize the inclusion of “protection of sovereignty” and the fundamental principles of international law in the convention and the draft proposal. For the sake of clarity and since a question was previously raised as to the term “protection of sovereignty”, I’d like to recall that this term was adopted in UNTOC and UNCAC which, *inter alia*, stipulates that “States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention.”

Madam Chair.

The importance of technical assistance was echoed by many Member States if not all. It is among the very purposes or pillars of UNCAC and UNTOC and aims to assist Member States in enhancing their efforts in fighting crimes. We believe that we could better reflect the significance of technical assistance in the objectives and elements of the convention. If we are to promote technical assistance why not be more straightforward. For this purpose, we propose that the third objective in section 2 be read as follows:

- To promote, facilitate, support, and provide technical assistance including material support and technology to States Parties, especially for the benefit of developing countries, to more effectively prevent and combat the use of ICTs for criminal purposes as well as to strengthen measures to promote and facilitate the exchange of information, **knowledge**, experiences and good practices

In the light of the above, we also propose that element number 13 under section III, subsection II, be modified accordingly and as following:



- Providing technical assistance and strengthening capacity building, especially for the benefit of developing countries, as well as promoting and facilitating the exchange of information, specialized knowledge, experiences and good practices and scientific and technological information useful to law enforcement so as to enhance their ability to prevent, detect and investigate the use of ICT for criminal purposes noting, in particular, the role of the United Nations Office on Drugs and Crime in this regard.

In a similar vein, we highlight the role of economic development in fighting crimes and recall that specific provisions were included in UNTOC and UNCAC with the title of “implementation of the Convention through economic development”. In line with this established practice, more importantly given the root causes of crime that emanate from underdevelopment and finally the inextricable nexus between development and fighting crimes, we propose that the following language be added to the elements of the convention:

- Promoting, facilitating and supporting the implementation of the convention through economic development.

Madam Chair.

The need to strike a balance between human rights and ordre public was highlighted during this session. For this purpose and in line with the international human rights instruments, we propose that the second paragraph under subsection II of elements of the convention be modified as following:

- Ensuring [comprehensive] protection for human rights and fundamental freedoms, consistent with the relevant applicable international obligations of State Parties



while giving due consideration to the protection of national security, ordre public, public health and morals.

We also ask for clarification on the term “comrpehesive protectiton”.

Given the important role of service providers and other related entities in fighting the use of ICT for criminal purposes, we propose the following to be included in the elements of the convention:

- Promoting, facilitating, and supporting effective and expedited cooperation of service providers with law enforcement and judicial authorities at the national and international level.

Liability of service providers should also be included in the elements.

We could go along with element number 13 yet propose a minor addition after “rapid mutual legal assistance and...”:

- Promoting, facilitating, and supporting international cooperation, in particular through effective and rapid mutual legal assistance and a global secure, standard and rapid-response channel of cooperation and the establishment of 24/7 contact points, as well as extradition, special investigative techniques, law enforcement cooperation, etc.

In the element number 9, we suggest a minor change to better address measures on electronic evidence:

- (1) Developing measures and standardized technical procedures, in particular establishing and strengthening competent authorities, to ensure the preservation, collection, obtaining and sharing of electronic evidence.



As for the term “countering”, we are of the view that “preventing and combating” better reflects measures related to the fight against use of ICT for criminal purposes, since it is understood that “countering” usually but not invariably refers to the actions taken by for example law enforcement while “preventing and combating” often covers a broader area. The term “preventing and combating” has also been referred to in the UNTOC and UNCAC.

I once again thank you