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Statement by the Republic of Poland
1st 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
Preliminary exchange of views on key elements of
the Convention

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Madam Chair, Distinguished Delegates,

Let me start by expressing once more our gratitude to you, your team and the Secretariat for your continued efforts in leading the discussion to reach the goals set for the first session of the Ad Hoc Committee. We really appreciate your leadership.

Poland supports the position of the EU in the context of provisions to be included in the proposed Convention as well as on the key elements of which the proposed Convention should consist.

As in the position of the EU and also the U.S., according to Poland, future Convention should in general focus on cyber-dependent crimes. The new Convention should cover crimes against the confidentiality, integrity and availability of computer systems, networks and data as well as the misuse of such systems, networks and data. Proposed regulations must be very precise and contain clear legal definitions of cybercrimes, which should be considered criminal acts in the legal systems of all States Parties.

Furthermore, we are of the opinion that the Convention should be extended to narrowly defined cyber-enabled crimes. We propose that the Convention should also apply to cyber-enabled crimes as defined in the Budapest Convention including offences related to child pornography.

However, we believe that it is important to avoid including an overly long list of broadly defined cybercrimes. In our view this is unnecessary, as there are already other instruments dealing with criminal offences where the involvement of information systems does not substantially alter the characteristics or effects of the offence (e.g. UNTOC).

As the honourable representative of Portugal rightly pointed out, we cannot extend the material scope of the Convention to every crime in which a cell phone

or computer was used. Such an approach would make the Convention apply to every conceivable crime from shoplifting to domestic violence. Electronic evidence can be found in every category of crime, regardless of the subject of protection.

Such an approach would make this convention supersede all other conventions relating to the fight against crime (including UNTOC and UNCAC) - which does not seem to be the purpose of our work.

We strongly support a technology-neutral approach to defining the crimes covered by the Convention. Therefore, we should focus on the general object of protection - for example, the information security attributes of confidentiality, availability or integrity - and criminalize attacks on those attributes. Currently perpetrators use smashing, vishing or spoofing in modus operandi, but we do not know what methods they will use in 5 or 10 years. Therefore, an approach based on defining an object of protection or protected goods will allow us to maintain technological neutrality. This approach was also adopted in the Budapest Convention, which, despite the time passing, is an important instrument of international cooperation in cybercrime cases.

It is also very important to have clear provisions in the future Convention that ensure respect for human rights and fundamental freedoms (such as the right to privacy or protection of personal data). New provisions in proposed Convention must be fully compatible with international human rights standards and a global, open, free, stable and secure cyberspace.

The Convention should not regulate rules of cooperation in cases where the narrow boundary between freedom of expression and infringement of

the personal rights of others is set by political, philosophical or cultural contexts. Therefore, in Poland's view, the Convention should not cover conduct that could be considered disinformation or misinformation.

The Convention should not be used as an instrument to restrict freedom of expression and to bring criminal proceedings against journalists who objectively report facts that are unfavourable to the government in particular countries.

Madam Chair,

Like many speakers before, I must express our full solidarity with Ukraine and the Ukrainian people. Poland condemns in the strongest possible way, Russia's military aggression against Ukraine that is a violation of fundamental principles of international law, including the UN Charter.

I thank you for your attention.