Proposal by Mexico to the Ad Hoc Committee on Cybercrime (AHC) to increase the ratifications threshold before entry into force to 60 States

Mexico proposes a change to Article 64.1 and 64.2 of the current draft, which is aimed at elevating the threshold before entry into force of the Convention from 40 to 60 ratifications.

**Article 64. Entry into force**

1. *This Convention shall enter into force on the ninetieth day after the date of deposit of the fortieth sixtieth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of that organization.*

2. *For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the fortieth sixtieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date on which this Convention enters into force pursuant to paragraph 1 of this article, whichever is later.*

Elements that support the rationale:

**A. Ensuring Inclusivity and Representation.** This Convention aims to be a global instrument that reflects the views of the UN Membership, united by the common goal to prevent and combat cybercrime through international cooperation and information exchange. This Committee has worked tirelessly to reach consensus with this goal in sight, yet the future of the Convention is being left in the hands of a few.

Pursuant to article 57, paragraph 5 (g), and article 61 in relation to OP5 of the draft resolution, State Parties can adopt additional protocols modifying and amplifying the scope of application and list of crimes considered therein at the first COSP. With a threshold of 40 ratifications, we are delegating this crucial task to only 20% of the membership. Furthermore, if decisions at the COSP require a two-thirds majority, meaning just 26 countries (13% of the current UN membership) would have the power to expand our collective responsibilities and dictate the Convention's direction.

Therefore, the possibility of reaching consensus should motivate the continuation of a process characterized by inclusivity, where its delicate balance is not compromised to fit the visions of a small number of countries. Otherwise, isolating the vast majority of the membership in these key decisions could incentivize regionalization to combat cybercrime, undermining the essence of this Convention.

**B. Practical Implementation.** The greatest virtue that underpins this Convention is fostering robust international cooperation to combat a borderless threat. To this end, it must respond to the realities of all states. Harmonizing our legal systems with a Convention of such a novel nature is a complex task that cannot be underestimated nor rushed; ratification processes require adapting numerous laws and regulations, interdisciplinary work, government coordination, careful analysis, and therefore, time. Thus, in practical terms, pushing for the precipitated ratification of the instrument
could be an obstacle to adequate compliance with its provisions and the wide-reaching international cooperation it intends to enable. On the contrary, a realistic and sensitive mechanism that accommodates the needs of all States could facilitate its effective application, instilling confidence in its signatories and in turn accelerating internal ratification processes.

**C. Recognizing the Convention's Unprecedented Nature.** Some delegations refer to the ratification thresholds of UNTOC and UNCAC as undisputed benchmarks. However, treaties signed over two decades ago should not set fixed ratification numbers for all subsequent treaties. This holds especially true when it concerns a topic as groundbreaking as cybercrime, whose particular nature increases the possibility of earlier protocol discussions. In such an unparalleled scenario, guaranteeing more inclusive processes that allow for more ample participation in decision-making from the outset becomes indispensable.

Moreover, recent treaties like the BBNJ Agreement reflect the evolving understanding that a number close to 30% of the membership is a better indicator of universality and extensive commitment. If this Convention is intended to be a truly universal and representative exercise, its entry into force must be more consistent with that vision, particularly considering the complexity and scope of the commitments, the sensitivity of the issues it addresses, and the unprecedented nature of a Convention related to cyberspace.

The above-mentioned elements complement the rationale presented by Mexico during prior sessions of the Ad Hoc Committee, which can be consulted here:

[https://www.unodc.org/documents/Cybercrime/AdHocCommittee/Concluding_session/Submissions/Mexico_proposal_article_64.pdf](https://www.unodc.org/documents/Cybercrime/AdHocCommittee/Concluding_session/Submissions/Mexico_proposal_article_64.pdf)

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