STATEMENT BY THE RUSSIAN FEDERATION 
IN THE AD HOC COMMITTEE TO ELABORATE 
A COMPREHENSIVE INTERNATIONAL CONVENTION 
ON COUNTERING THE USE OF INFORMATION 
AND COMMUNICATIONS TECHNOLOGIES 
FOR CRIMINAL PURPOSES 

CONCERNING THE ENTIRE TEXT OF THE CONVENTION 

(30 July 2024)

The Russian Federation demands a transparent process of finalizing the text. First of all, we insist that all proposals on the text be displayed on the screen – that is the only way to ensure that they are discussed in a constructive and effective manner. All opinions voiced must be taken into consideration. Secondly, small groups finalizing the text should comprise members of all delegations that have proposed amendments thereto.

The convention is elaborated by Member States with a view to creating a secure foundation for international law enforcement collaboration. In the context of a global treaty, such a foundation should be underpinned by unambiguous provisions that leave no room for dual interpretation.

In practice, we have faced unjustified denial of international assistance on multiple occasions. Some of the human rights provisions promoted for inclusion into the text provide legitimate options for such denial. Russia expresses its full solidarity with the statement submitted by the distinguished delegation of Egypt and supported by dozens of other delegations.

Human rights are enshrined in Articles 21, 23, 24, 36, and 37. However, while Article 24 stipulates standard limitations designed to prevent abuse of authority on the part of law enforcement agencies, Article 23, paragraph 4, heavily overloads the future document by extending the application of certain
conditions and guarantees in procedural measures to international cooperation. We support the vivid and sound reasoning formulated by the Venezuelan and Syrian counterparts.

Another limiting provision is contained in Article 6, paragraph 2. Obviously, it is not only about the aspiration of individual countries to uphold human rights values. For the most part, the proponents of such provisions seek to create for themselves the most favourable conditions enabling a subsequent refusal to cooperate.

We note the inadmissibility of the proposal by Costa Rica regarding the use of "political crimes" as grounds for denying assistance. Even though the use of such grounds is provided for under a number of existing international treaties, it has never enjoyed unanimous support, particularly by virtue of its extremely broad discretionary nature, including from Russia, which has consistently made relevant declarations and reservations to the instruments in question regarding its applicability. We would also like to appeal to the Chair here, as, in accordance with your methodology, submission of new proposals is not allowed.

We fully share the position of the Egyptian, Iranian, Pakistani, Vietnamese, and Mauritanian delegations that the treaty is oversaturated with human rights safeguards. This would lead to an excessive use by certain states of the opportunities to reject requests for legal assistance, and, in the worst-case scenario, could thwart the efforts of the international community to develop a foundation for law enforcement collaboration. What is it, if not a deal-breaker?

We know too well what we will hear in response. In anticipation of feeble counter-arguments, I will say: no one in this room is against human rights. The problem is that, in this particular case, certain countries pursue narrow self-serving goals under the banner of democratic values. Although "pseudo-democratic" would be a more appropriate word to use.
By the way, are there any universal criteria for defining such values? What is the criterion for the freedoms referred to in Article 6, paragraph 2? Does, for example, the seizure of an office building by disgruntled voters constitute freedom of expression? Can driving children to suicide be considered freedom of opinion? We support the point made by our Pakistani friends that no freedoms should be used as a cover for moral degradation? And what is the freedom of speech? What defines its limits? Or are we talking about absolute freedom, which is capable of destroying the collaboration at the root?

The Russian Federation would like to attract the attention of Member States to the fact that the use of the prefix "cyber" in the title promoted by certain delegations blatantly violates the mandate of the Ad Hoc Committee established in fundamental UNGA resolutions 74/247 and 75/282. Our Cuban colleagues have demonstrated it clearly. In fact, we are invited to work on a document that has not been authorized by the General Assembly. Russia has not heard any solid arguments to justify the current developments.

Claims by certain delegations that the use of the prefix "cyber" in the title is consistent with the purposes of the convention – which is, in their opinion, sufficient – do not stand up to any criticism, because there is a mandate beside the purposes.

Countries that have initiated this course of action, maintain that resolution 74/247 was not adopted by consensus. Let us not mention that those who voted against it for two and a half years are involved in this process. We would like to remind you: subsequent resolution 75/282, which finalized the modalities for the functioning of the Ad Hoc Committee, was approved unanimously.

Russia has repeatedly demanded that the proponents of this approach provide clear, unambiguous explanations: what is "cyber"? Are we talking about computer systems alone? What about other hardware and software systems, including telephones and other communication devices: are they falling outside
the scope? No answer has followed. There is no such notion in the terms (Article 2). In fact, a global treaty under a title whose essence is not disclosed is being imposed on us.

The prospect of such a convention is obvious: those countries that possess a sort of secret knowledge of the nature and elements of cybercrime will determine the scope of the agreement, decide which offences fall within its scope and which do not. This provides room for free, not to say voluntaristic, interpretations of treaty provisions. But in fact it irreversibly narrows the scope of the convention, hamstringing the issues of criminalization and the possibility for the further elaboration of the additional protocol.

The Russian Federation insists that the title be corrected in line with fundamental UNGA resolutions 74/247 and 75/282. We are in favour of including the term "crimes committed through the use of an information and communications technology system" in Article 2 "Terms". We support the proposals voiced by a number of delegations to restore Article 2, paragraph 2.

We consider as limited the current definition of "service provider" contained in the article on Terms. Based on this definition, service providers are telecom operators and entities that process or store electronic data on behalf of such telecoms operators or users of services provided by telecoms operators. Given that there currently exist a number of other IT services that do not constitute communication services and are provided directly to the user, individual service providers fall outside the scope of this definition.

As an example of such a service provide, a hosting provider can be mentioned – a person engaged in providing computation capacity for posting on the Internet. Thus, the current definition fails to ensure the relevance of this convention, nor will it facilitate proper information sharing among law enforcement agencies, since a number of information owners will remain outside the scope of the regulation.
In this regard, we insist on the following language for "service provider": (e) "Service provider" shall mean: (i) Any public or private entity, natural or legal person that provides to users of its service the ability to communicate by means of an information and communications technology system, process or store electronic data; and (ii) Any other entity that processes or stores electronic data on behalf of such a communications service or users of such a service.

Article 4, paragraph 2. The provisions of this paragraph run counter to Chapter II "Criminalization," which provides for the States Parties' obligations to establish offences listed in Articles 7–17 as a criminal offence under their respective domestic laws. Contrary to obligations specified in the said articles, Article 4, paragraph 2 states that nothing in this article shall be interpreted as establishing criminal offences in accordance with this convention.

This is an obvious contradiction: the provisions are mutually excluding. In future, such a set-up will lead to a conflict of the norms of the convention. We deem it necessary to remove Article 4, paragraph 2.

The Russian Federation shares the position of China and Nigeria on the need to urgently develop an additional protocol on criminalization. That is the only way to ensure the applicability of the convention not only to existing crimes but also to the newest ones and to guarantee its effectiveness in order to avoid producing a still-born document.

The ability to prevent and suppress (deter) crimes at the stage of their planning and preparation to avoid any harm or damage from unlawful acts is an indicator of the effectiveness of law enforcement officers. Therefore, international treaties in the area of countering crime, including the convention currently being drafted, should cover the whole range of aspects of international law enforcement cooperation: detection, prevention, combating (deterrence) and investigation of crimes. This idea has also received support from our Indian
colleagues. Such mechanisms of deterrence are provided for by the United Nations Convention against Transnational Organized Crime, among others.

In this regard, we are perplexed by the approach of most technologically developed countries. Possessing their own detailed legal and regulatory framework for preventing, combatting and deterring crime, they reject any attempt to incorporate such provisions into the draft convention. The Russian Federation once again insists on the **inclusion of the term "prevention" in articles 3, 23, 35, and 42.**

**Article 27.** The Russian Federation is concerned about the fact that the provisions of article 27, paragraph (a) carry the risk of being possibly used for obtaining unilateral cross-border access by the authorities of one State to data stored in the territory of another State without recourse to legal aid or law enforcement assistance, just by addressing the person in whose possession the data are stored, as there are no limitations as to their nature, ownership or legality of being in that person's possession.

In this regard, the Russian delegation proposes that **this paragraph of article 27 of the draft convention be amended** to add the words "located in its territory" to paragraph (a) after the words "electronic data storage medium".

In the chapter on **International Cooperation,** in order to avoid arbitrary interpretation of the norm, we insist on **amending article 36, paragraph 3** (Protection of personal data) as per the first version of the draft convention: *Subject to paragraph 2 of this article, States Parties may transfer personal data obtained in accordance with this Convention to a third country or an international organization only with the prior written authorization of the original transferring State Party, which may require that the authorization be provided in written form.*

Finally, the Russian Federation would like to focus delegations' attention on the mechanism for the entry into force of the Convention.
**Article 63.** The current wording contradicts the spirit and letter of the future treaty, creating risks for its entry into force and universalization. We are in favour of the following wording: "This Convention shall be open to all States for signature at United Nations Headquarters in New York starting from ...". We should avoid a scenario in which the Convention remains frozen due to procedural delays resulting from the peculiarities of the national legislations of the Member States.

**Article 64.** The Russian Federation strongly opposes increasing the number of ratifications of the Convention required for its entry into force to 60 States. In order to avoid creating artificial obstacles to the functioning of the instrument, we consider the optimal number to be **30**.