Statement on Paragraphs 14 and 16 of the Updated draft text of the Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes

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Paragraphs 14 and 16 of the draft articles create loopholes for the creation, possession and sharing of child pornography. This is in direct conflict with the Optional Protocol of the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, that defines any sexual images of minors as illegal “child pornography.”

The fact such material is created virtually or consensually by children who are fourteen or fifteen does not take away the danger this poses to children. It is still child pornography according to the CRR Protocol. In particular, the criminal intent requirement in Articles 14.1 and 16.5 makes it impossible to prosecute many cases of possession or distribution. It is essential to uphold this strict liability standard of the CRC Protocol.

Once child pornography is generated it is almost impossible to control and chase down. That is why the strict liability standard was put in the CRC Protocol in the first place. The loopholes in this draft convention will fuel demand for sexual images of children and will lead to more child trafficking and exploitation.

Children should not have to bear the burden of having to protect themselves from exploitation on online technology platforms. But if we allow children to consensually produce and share self-generated sexual images or programmers to create virtual child pornography, how can we protect children. This will only embolden perverts to eventually hurt children.

It is a well-established fact that pornography and legal prostitution fuel perversion, violence against women, and ultimately sex trafficking. In the same way, virtual child pornography and self-generated child pornography will embolden and aggravate the sick perversions of child predators. It is irresponsible and immoral to presume that perverts will stop at virtual child pornography and self-generated child pornography. They will inevitably
graduate to worse and more explicit forms of child pornography, and this will in turn fuel more child sexual exploitation and abuse.

Moreover, allowing children to self-generate sexual content would create an impossible conflict of laws across borders. If an under-age girl from Africa or the Middle East produced sexual content and shared it across borders with someone in Europe, whose laws would apply?

These loopholes are a boon for the worse sex abusers and perverts. They will have access to an endless stream of legally generated live and virtual child pornography that will lead to the sexual exploitation of more children. This is unacceptable. The burden should be on their parents, technology platforms, and public authorities.

We believe the convention should include the standard of “child pornography” of the CRC Protocol which is already enshrined in the criminal laws of many countries. The more recent standard of “child sexual abuse material” is not coextensive and must not replace the standard of child pornography in the CRC Protocol.

It is better to delete articles and 14 and 16 altogether than to have them in their present form. The CRC Protocol must not be undermined. Children deserve better than this.