

Mr. Chair,

Given our absence yesterday, we would very briefly like to address clusters 4 and 5 on criminalization, before addressing the questions on general provisions.

In short, Israel believes that offenses such as drug trafficking and counterfeiting are, in most cases, covered by existing legislation. For the most part, these are not cyber-dependent offenses, such that we do not see a specific need to address them in the present context.

With respect to the possibility of addressing ancillary issues such as obstruction of justice, liability of legal persons and aiding and abetting – we are open to this possibility, inasmuch as these issues are necessary to complement the main criminalization provisions.

Turning now to the general questions -

Israel concurs with the statement, made by several delegations today, regarding how to ensure that the convention stays relevant for the future and refers to a broad spectrum of technologies. In our view, we should be striving to remain technologically neutral to the extent possible, in order for the convention to remain relevant for decades to come. Of course, given the highly dynamic nature of technological change, it is not feasible to fully future-proof the convention (or indeed, any legal text). Still, countries across the globe have, today, 20-25 years of experience with combatting cybercrime. We can and should use definitions that have proven to work, essentially, those from the Budapest convention, with tweaks as necessary. To that end, terms like “computer system” and “data” are widely understood and fairly well defined. For this reason, we favor referencing those terms rather than introducing new concepts.

Similarly, provisions from UNCAC and UNTOC such as a statement of purpose, scope of application, protection of sovereignty, etc. provide some general interpretative guidance. We will no doubt need to draft the provision on scope of application carefully; however at this stage, Israel is prepared to consider reproducing the relevant provisions from UNCAC and UNTOC in a future cybercrime convention, with some adaptations.

As to articles on electronic evidence, and the scope of application of these clauses- Israel sees these as necessary for the detection, investigation and prosecution of cybercrime, and thus, they should be developed as well. Given the relevance of such provisions for the investigation of crimes generally, Israel supports extending their application to such other crimes, with the clarification**.

[Regarding the reference to sovereignty -Sovereignty is part and parcel of the ability for states to apply a convention consistent with their domestic legal system, subject to international law requirements. We note that one way to give appropriate consideration to sovereignty is through the ability to make reservations and declarations.]

With respect to human rights, Israel is mindful that human rights are axiomatic to the discussions. As was eloquently put yesterday by some delegations, criminal law embeds within it human rights concepts such as privacy, free speech and due process. This is just as true of course

in the context of cybercrime. For this reason, we support including a general statement that would appropriately anchor the convention in human rights foundations

Regarding gender perspectives – Israel, similar to other delegations, is of the view that prevention and enforcement addressing crimes, and the protection of victims of crime, should be gender-sensitive. The digital sphere in which cybercrime occurs is no exception, and we believe that gender perspectives should be considered in the discussions.

A number of delegations yesterday provided their views regarding which defined terms should be included. Our position at this stage, is that we do not necessarily need to begin the discussions with an a priori list of defined terms. We anticipate much discussions regarding the underlying concepts that these terms aim to convey and define – for example, which kinds of activities ought to be criminalized. Rather than attempting to provide a list of defined terms in advance, there should be a common general understanding of the substantive common grounds, (with appropriate discussions at the beginning of a new topic) to ensure we are "on the same page". The inclusion of a definition and the precise content of that definition can be discussed together with the substantive provision. If there is a disagreement about a foundational topic, this suggests that the disagreement is substantive rather than semantic, and that substantive divergence should be addressed.

Thank you, Mr. Chair