Distinguished Madam Chair, Delegates, Ladies and Gentlemen,

Further to the statement delivered yesterday (29 August 2022), we would like to address the remaining guiding questions on “International Cooperation” as follows:

3.1. On questions 8, 9 and 10, the required channel for transmission of requests from Malaysia and to Malaysia shall be through the diplomatic channel. Requested document or electronic evidence transmitted via electronic means should be made using secured measures, e.g. encryption/passwords.

3.2. On question 11, the key information to be submitted for MLA requests can be formulated based on the provisions of Article 18 paragraph 15 of UNTOC and Article 46 paragraph 15 of UNCAC.
3.3. On question 12, the convention can consider implementing the same mechanism as provided in both UNTOC and UNCAC.

3.4. On questions 13, 14 and 15, the convention should defer grounds for refusing an extradition or mutual legal assistance requests to the domestic laws of the States Parties and applicable treaties.

3.5. On question 16, For Malaysia, there is no need for a specific clause on the exception for political offences in the convention as it is already provided under Malaysian laws.

3.6. On question 18, specific provisions on investigative powers should be included in the convention such as accessing of stored computer data-electronic information and interception of content data.

3.7. On question 19, trans-border access to data/information without the authorization of the States Parties where such data or information is geographically located should only be limited to where the data or information is publicly available. In other words, Malaysia strongly disagrees with the inclusion of paragraph (b) of question 19 as it may pose a threat to the sovereignty and security of States Parties.

3.8. On question 20, Malaysia is agreeable for the inclusion of the provisions on facilitating return of confiscated assets/property in this convention, as provided in UNTOC.

3.9. On question 21, the establishment of a 24/7 network of points of contact must take into consideration technical and financial constraints of States Parties and should also consider utilizing networks established under existing international instruments and frameworks.
On question 22, Malaysia is of the view that surveillance, specifically interception can be used as part of special investigative techniques pertaining to cross-border cybercrime/criminal investigations as communications in cybercrime can be done between persons and persons via the internet. However, Malaysia is of the view that international cooperation between States Parties to conduct surveillance in each other's states must be subject to bilateral and multilateral agreements or arrangements to use such special investigative techniques and such provision should model Article 20 paragraph 3 of UNTOC and Article 50 paragraph 2 of UNCAC.

On question 23, The convention should contain a specific provision for the use of video links for the purposes of taking evidence as long as it is permitted under the States’ domestic laws. Nevertheless, in addition to the domestic laws, the operationalization of such provision must also take into consideration the facilities available and the limitations of the diplomatic mission or the consular post concerned.

I thank you, Madam Chair.