Thank you, Madam Chair.

It is a pleasure to be in our 3rd Formal Session. The committee continues to do ground work for the convention we will build.

The first issue under discussion in this session is cooperation. It sums up the main reason that brings us together. We need our interactions to be as fast as the internet. The information and the evidence we exchange need to reach its legal destination timely and effectively.

Brazil submitted its text proposal for the second half of the convention. Our approach has been to put together previously agreed text, as well as language proposed by partners and our own original ideas.

We commend you, Madam Chair, for proposing and applying this methodology and the delegations for the excellent submissions.

Before getting into the first block of questions on cooperation, we would like to emphasize that the legal instrument we build will not be effective if we lack in technical assistance and capacity building provisions. Without capacitating partners to acquire the equipment and expertise necessary to cooperate, we may still have, even with an universal legal instrument, areas of the world used as safe havens for criminal operations.

To sum up, madam Chair, we need criminalization, procedural law and International cooperation - backed by strong technical assistance.

That is the recipe for reaching a new level on our common fight against crime.

As for the first block of guiding questions:

**Chapter on International cooperation**

- **General principles and scope of the international cooperation**

  1. What forms of international cooperation should be stipulated in the convention? In addition to extradition, mutual legal assistance, law enforcement cooperation, should the convention cover transfer of sentenced persons, transfer of criminal proceedings, joint investigation, international cooperation for purposes of confiscation, return and disposal of confiscated assets?

    - **We do believe the convention would be more effective with the inclusion of provisions on other forms of cooperation. In particular, as**
included in our national submission, we would favor the inclusion of provisions on:

- **Transfer of criminal proceedings**, as another way to prevent impunity for cybercriminals;
- **The establishment of joint investigative teams**, which can be a very effective tool against organized cybercriminal groups that may include members and activities in several jurisdictions.
- **Measures for the recovery of property**, including confiscation and return of property, as well as the possibility of direct recovery, which are effective to guarantee not only that the criminals will not be able to access the proceeds of their crimes, but also that property is expediently returned to their rightful owners.
- **As for transfer of sentenced persons**, for our point of view, it is a measure to mainly enable prisoners to serve their sentence closer to their family. As this possibility is already covered by other international instruments, as well as by bilateral agreements, in principle, we don’t think this issue should be covered by the convention, but we are open to discussing this issue.

2. **What should be the scope of offences to which the international cooperation mechanisms stipulated in the convention apply?** While from the reading of proposals there would appear to be a common understanding that the extradition provisions would apply only to the offences established in accordance with the convention, in relation to other forms of international cooperation such as mutual legal assistance, transfer of criminal proceedings, cooperation between law enforcement, etc, should these provisions apply to the collection of electronic evidence for offences beyond those established in accordance with the convention? If yes, should they apply regardless of the penalties of the offences where electronic evidence needs to be collected, or should the scope be limited to “serious offences”? 

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3. Do you think that the provisions on extradition and mutual legal assistance should follow the model of UNCAC or UNTOC and to what extent?

- We consider that the convention would be more effective if its international cooperation mechanisms apply to a wider scope of offences, given that it would be beneficial for the exchange of electronic evidence relating to several types of crime.
- Provisions on matters like extradition, transfer of criminal proceedings and recovery of property, on the other hand, may need to have their application limited to the offences set out in the convention.
- Also answering to question number three, we would favor following the model of UNCAC and of UNTOC.

4. Should the international cooperation provisions apply to investigation and prosecution of civil and administrative cases related to the liability of legal persons, for committing an offence established in accordance with this convention?

- We do believe it would be important that the convention foresees the possibility of applying international cooperation provisions to civil and administrative cases. As Brazil, several countries do not have criminal liability of legal persons and, therefore, would require international cooperation to be able to punish legal persons for unlawful acts related to the convention. Traditional civil legal assistance treaties, in general, limit the scope and the possibilities of mutual legal assistance.

5. Should the convention include a threshold penalty period for the offences to which the extradition article may apply (eg offences subject to a maximum penalty of not less than a given number of years imprisonment)?

- Yes, establishing a minimum number of years for the pending penalty is important to avoid processing an extradition request that would consume the full period of years of a very short penalty. Our suggestion would be a minimum period of two years, but we have
been listening to the discussions and we acknowledge the position of a considerable number of countries that have set the threshold to one year of imprisonment. We would not oppose to that.

6. How can consistency between international cooperation provisions and the respect for human rights be ensured?

- Brazil has stated that conditions and safeguards are an important element of ensuring balanced cooperation that duly respects the fundamental standards that we have historically set through human rights and the UN Charter. We favor their eloquent reiteration in the convention as an overarching article covering all the aspects of the convention.

7. How should the chapter on international cooperation determine the requirements for the protection of personal data for the purposes of the convention?

- Given that the right to privacy is an essential aspect of the convention’s human rights perspective, special attention should be given to this issue.
- We consider that the text of the Budapest convention is a good guide for the protection and preservation of personal data, and that states should commit to processing personal data fairly and lawfully.
- Brazil, for instance, has approved a Law on the Protection of Personal Data in 2018, which established a National Data Protection Authority in charge of guaranteeing that high levels of protection of personal data are applied countrywide.
- It is necessary to acknowledge, however, that not all countries have enacted specific laws regarding the protection of personal data.
- In this sense, for the purposes of this convention, it may be more practical to include an obligation that the information provided be only used for the investigations or procedures that were mentioned in the original request.