PHILIPPINES

PHILIPPINE STATEMENT
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Item 4. Provisions on International Cooperation
29 August – 31 August 2022

First group of questions

Thank you, Madame Chair.

Merci beaucoup Madame la présidente. Je vous remercie, ainsi que votre Bureau et le Secrétariat pour l’organisation de cette troisième session. Comme par le passé, je tiens à vous assurer de l’engagement actif de ma délégation. [At the outset, please allow me to thank you, your Bureau and the Secretariat for the organizational arrangements of this Third Substantive Session. As in the past, I wish to assure you of my delegation’s active engagement in this process.]

On the first group of questions on the general principles and scope of the provisions on international cooperation, the Philippines submits the following:

1. The forms of international cooperation to be stipulated in the convention should include extradition, mutual legal assistance and law enforcement cooperation. It should also contain provisions on joint investigations, mechanisms for the recovery of property through international cooperation in confiscation, and international cooperation for the purposes of confiscation with regard to offenses established in this convention.

2. Mutual assistance should follow the principle of “widest extent possible” for purposes of investigations or proceedings or for the collection of evidence in electronic form of a criminal offense.

3. As for the scope of offenses to which the international cooperation mechanisms stipulated in the convention apply, the Philippines understands that the extradition provisions would only apply to offenses established in accordance with the convention.

4. The convention should provide both formal and informal forms of international cooperation, as these prove useful in investigating time-sensitive crimes as cybercrimes and those that entail the collection of electronic evidence. Regardless of form, the
international cooperation concept of the convention must promote cooperation to the widest extent possible between and among member-States.

5. These mechanisms should cover both crimes covered by the convention and those that entail the collection of electronic evidence. This will be consistent with most of the member-States’ intervention during the 2nd session of the Ad Hoc Committee, where they enunciated that the procedural tools of the conventions should cover cybercrimes and those crimes that have electronic evidence component.

6. The Philippines also believes that the general principles, conditions and safeguards consistent with relevant existing international instruments may be useful for the future convention. Article 43 of UNCAC on International Cooperation serves as a model.

7. Applicability of international cooperation provisions should not preclude civil and administrative cases. Parties should consider assisting each other in investigations of, and proceedings in, civil and administrative matters relating to the offenses set forth in the convention.

8. The convention should include a threshold penalty period for the offenses to which the extradition article may apply as this is a common feature among mutual legal assistance treaties in criminal matters. Having a threshold penalty period will guarantee that most serious of crimes are prioritized and limited resources in implementing the assistance are maximized.

9. International cooperation provisions must uphold the privacy of personal data and must limit the use, access, and processing of personal data for purposes strictly necessary, proportional, and relevant to the requirements of law enforcement. In so doing, the convention must strive to consider the best practices and principles of data protection that are common or universally applicable to all member-states so that the privacy of their personal data is respected while carrying out lawful state objectives.

10. Finally Madame Chair, the implementation of the international cooperation provisions of the convention must strictly adhere to the data privacy principles of transparency, proportionality, and legitimate purpose as provided for under the member-State’s domestic law and international obligations.

    Thank you, Madame Chair.