India’s statement

Madam Chair

1. I would like to thank and congratulate you for convening this third session of the UN Ad Hoc Committee in New York and your leadership in providing us the Guiding Question which will be of immense help for the participants to remain focused during the discussions. I would also like to thank the Secretariat for their diligent work in compiling and publishing the submissions made by the member States. My delegation has carefully listened to the interventions made by member states yesterday and today.

2. It is encouraging and heartening to note that there is growing convergence on increased international cooperation under this Convention. Much development has taken place from Resolution 74/247 which was passed by the UNGA in December 2019 to constitute this important Ad Hoc Committee to elaborate a comprehensive international convention to counter the use of ICTs for criminal purposes. Many member states that did not support the Resolution are now constructively engaging in the negotiation of this convention by actively expressing their thoughts and submitting their written statements. This clearly indicates that there is a realization among member states of the importance of addressing together the criminal use of ICTs and there is an urgent need to create an international legal framework for law enforcement agencies to cooperate effectively and efficiently to counter the criminal use of ICTs and bring cyber criminals to justice.

Madam Chair,

3. I would also like to draw the attention of the Chair as well as member states that the guiding questions have been drawn only on the basis of the submissions made by member countries to the Secretariat for 3\textsuperscript{rd} Session. Approximately 25 written submissions have been published on the AHC website. It is possible that many member states were not able finalize their texts and submit their written submission and hence it is important that the views beyond these guiding questions may also be taken into account during the 3\textsuperscript{rd} Session.

Madam Chair,
4. India has been actively and constructively participating in the discussions. Earlier, it has offered practical solutions to address some complex issues before the Ad Hoc Committee which will be helpful in increasing the international cooperation.

5 Now, I would answer the guiding question:

Q. 1. India supports widest possible international cooperation.

Q. 2. India supports scope of offences to include all crimes committed with the use ICTs. There should be collection and sharing of electronic evidence for all ICT crimes under the Convention. Electronic evidence should be shared through secured and trusted ICT channels. For sharing of information / evidence, these may be divided into non-content data/ meta data and content data. India elaborated this in its submission made before the 2nd Session to Ad Hoc Committee. Non-content data/ meta data may be shared without MLATs. Content Data may be shared through faster MLATs and with adequate safeguards.

Q.3. India is of the view that relevant provisions of UNTOC and UNCAC can provide a good basis to work upon with necessary changes to address the requirements to combat the criminal use of ICTs. The existing provisions of UNTOC and UNCAC have limited scope in dealing with cybercrimes, and that is the reason why we are all here discussing and negotiating a new international comprehensive convention to counter the use of ICTs for criminal purposes. Those provisions of regional Conventions that have worked well, could also be considered if member states deem it appropriate.

Q.5. The threshold penalty period for the offences to which the extradition article may apply should be minimum imprisonment of 1 year.

Q6. India is a firm believer in Human Rights and the Indian Constitution guarantees Fundamental Rights to its citizens. The Universal Declaration of Human Rights clearly enshrines the rights and freedoms of all human beings. However, it is important to note that Article 29 of this Declaration also provides for duties as well and I quote, “Everyone has duties to the community in which alone the free and full development of his personality is possible.

An individual can continue to enjoy the freedom that the community provides provided that Law Enforcement Agencies have enough tools to protect the community from cyber criminals that provides the platform for individuals to enjoy liberty. Hence, it is important that a balance is found between the requirements of law enforcement agencies and individual’s freedom under this Convention. Therefore, India has been emphasizing the need to share non content data/meta data under this convention in a more efficient manner,
which will balance the requirements of protecting the privacy and human rights of individuals.

Q.7. We support the US submission that the data shared under this Convention should be used only for the purpose it was intended for.

Thank you Madam Chair.

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