Thank you very much Madam Chair.

Madam Chair, your Excellencies, Distinguished delegates:

Let me begin by expressing our deep appreciation for the comprehensive and very useful work carried out in preparation of this session of the Committee.

I would like to assure you of Portugal’s constructive engagement and full cooperation throughout these two weeks. Portugal is fully committed in fighting against cybercrime, also in the field of criminal justice, and is thus very much interested in fully cooperate in the work of this Committee.

At the outset, I would reiterate Portugal’s full alignment with the statement delivered by the European Union. In our national capacity, I would like to express what follows.
Cybercrime is, by its own nature, international. That is, in general, all crimes committed by the means or with the use of information and communication technologies and networks are related with more than one State or jurisdiction. Thus, most of the cyber related criminal investigations require obtaining information, or evidence, from more than one State.

[Alongside the crisis caused by Russia’s invasion of Ukraine, it is important to remember that] the world is currently suffering a great increase of crimes committed in the cyber environment. This emphasises the also increasing need to use the mechanisms of international cooperation in criminal investigations. To understand and properly investigate cybercrime, its intrinsic international dimension must be assumed. And, therefore, we must be aware that the investigation of this type of crime requires effective international cooperation. Without international cooperation, it is unlikely that investigations on cybercrime will be successful.

With this, we want to underline the importance of including international cooperation in the text of the future convention. We consider the discussions on the current chapter essential. The future convention must provide effective measures for international judicial cooperation on criminal matters.

Having said that, we would like also to express two major ideas, that we believe must be the most important guidelines, when drafting the articles on international cooperation.

First, in our opinion, all criminal procedural measures adopted as forms of international cooperation should be subject to adequate conditions and safeguards and must provide for the appropriate protection of human rights and fundamental freedoms. A future convention will be a criminal justice instrument requiring thus the appropriate set of procedural guarantees and safeguards. Such type of rules should be in line with the international human rights standards recognised by several instruments of the United Nations and should also incorporate the principles of
legality, necessity and proportionality. Furthermore, we must ensure that any cooperation is also subject to conditions and safeguards provided for under the domestic laws of State Parties. This should be reflected on the provisions establishing the grounds for refusal allowing, namely, the possibility to refuse cooperation requests based on concerns over the use of death penalty.

Second, the adopted measures should take into due consideration the existing standards and the existing international cooperation measures already in place, and daily used in the investigation of cybercrimes. It is the case of several UN instruments, such as UNTOC or UNCAC, but also of other international instruments in place, such as the Malabo Convention or the Budapest Convention on Cybercrime.

This is, of course, a matter of legal coherence and consistency. But it is also a matter of efficiency: legal practitioners will appreciate if different international legal instrument converge and do not create illegal uncertainty.