V. Mechanism of implementation

Qn No 38.
Ans: The Convention may draw upon the implementation mechanisms of UNTOC and UNCAC to frame the mechanisms. It may also include provisions, which have worked well from the Regional Conventions dealing with ICT crimes.

Qn No 39.
Ans. The Convention is yet to define the crimes to be included in the criminalization chapter as well as the provisions of international cooperation and mutual legal assistance, to provide faster mechanisms of collection and sharing of information / evidence linked to non-content data and content data. The implementation mechanisms of this Convention will have to be dovetailed to cater to these requirements in fast evolving technological situation to make it technological neutral and future proof.

Qn No 40.
Ans: The Convention should provide a mechanism by which relevant non-governmental organizations, civil society organizations, academic institutions and the private sector can share their experience and expertise to the member States through INTERPOL. This will avoid duplication of efforts in creating another body or burdening the Conference of Parties under this Convention.

V. Final provisions

Qn No 41.
Ans : India firmly believes that the provisions of this convention must not reduce or restrict the already existing cooperation between countries, especially in the matters of sharing of content and non-content data under the existing treaties or arrangements. The chapter on final provisions in a convention is as important as any other Chapter. While discussing the provisions to be included in this Chapter, it is pertinent to take into account that the Convention needs universal participation. Cybercrimes are unique and have the tendency to create manifold loss to every one on all aspects. Owing to the pressing need to collectively address cybercrimes, these negotiations should proceed in a timely manner and once adopted, the implementation of the Convention should be highly efficient. Hence, while a proposal to include a provision on effects of the convention with other treaties could be considered, it should be reminded that inclusion of any such provision should not hinder any cooperation that is envisaged under the future Convention.
Qn No 42.

Ans: Our Answer is Yes. Given the evolving nature of cybercrime, it is important to provide for a dedicated provision to allow for additional/supplementary protocols. Such protocols should be in addition to the future Convention for the effective implementation under changing circumstances without compromising on the basic structure of the Convention. Such protocols should be deliberated and discussed and adopted by the Conference of Parties (COP). The expert body envisaged in the convention can facilitate the preparation of such protocols prior to the meeting of the Conference of Parties, to enable adoption by the member states. The Rules of UNGA shall apply for making any decision in Conference of Parties.

Finally Qn No 43.

Ans: Our Answer is Yes. Provisions on reservation will facilitate more number of Parties to the Convention. Hence, a provision on Reservation is to be included in the future Convention. The kind of reservations could be identified when the draft takes a shape further to the third session. The framework of reservations should not defeat the primary purpose and objective of the Convention. The provisions providing for reservations could have UNTOC and UNCAC as basis. Such reservations, however, should not limit the cooperation intended under the Convention, particularly sharing of content/meta/non-content data, MLA and extradition. The Member States may not be allowed to make reservations to Criminalisation Chapter and International Cooperation.

Qn No 45.

Ans: As per UN past practice, minimum number of States parties' ratification may be stipulated for the Convention's entry into force. Standard minimum number of days requirement be taken after the deposit of the last required instrument of ratification or accession before the entry into force of the convention.

Qn No 46.

Ans: Our answer is Yes. All member states should be allowed to propose amendments and the same may be moved through the expert body before the Conference Of Parties. The UNTOC and UNCAC models for amendments could be considered. However, any amendment should follow UNGA rules.