International Cooperation: NZ Statement

Thank you Chair

We look forward to our discussions over the next two weeks and we thank you, your team, and the secretariat for the immense work that has gone into developing the set of guiding questions, which is very helpful in facilitating our deliberations.

At the outset, New Zealand joins others to condemn in the strongest possible terms Russia’s ongoing unprovoked and unjustified attack on Ukraine, which represents a clear violation of Ukraine’s sovereignty and territorial integrity. We stand with the people of Ukraine and we call on Russia to immediately withdraw its forces to avoid further catastrophic and pointless loss of life.

Chair, turning to our work.

In our intervention now, we will address a range of guiding questions on item four, which supplement our written contribution.

In our view, the list in question one captures the full range of international cooperation that we should seek to discuss for this convention. We note there are differing views on what should be included but, as Uruguay noted in their intervention, we are open to discussing all of the listed elements with a view to finding consensus on those areas where there is a common understanding.

In regards question two, the extradition provisions of this convention should apply only to the offences set out in the convention, and only to offending punishable by the laws of both parties of imprisonment for a term of 1 year or more. States Parties should be able to refuse extradition requests on the grounds established by its domestic law and applicable treaties.

In relation to other forms of mutual legal assistance, we are open to discussing the proposal put forward by some states that provisions relating to the collection, preservation, and sharing of electronic evidence could apply to offences beyond those established in this convention. For us, this would be contingent on the convention having robust human rights safeguards.

We would emphasise that all aspects of this convention should be consistent with states’ existing international human rights obligations, which apply online just as they do offline, including the right to freedom of expression and the right not to be subjected to arbitrary and unlawful interference with privacy.
Nigeria made the important point yesterday, and Austria this morning, that successful international cooperation relies heavily on developing strong mechanisms of trust between states. Ensuring strong human rights protections within this convention is one such method of building that trust.

Likewise, victims of crime, particularly vulnerable groups, are less likely to come forward to report crime if they do not have confidence that their private and personal information is going to be protected.

Therefore, in response to question six, we believe the international cooperation chapter should contain a general conditions and safeguards provision. This provision should ensure that the powers and procedures for international cooperation shall be carried out in a manner consistent with the protection of human rights and fundamental freedoms, the rule of law, and the principle of proportionality.

Chair

In our view the provisions relating to form and transmission of requests for mutual legal assistance is an area where practical measures can be taken to improve the efficiency of such requests.

The important factor relating to the transmission of requests for mutual legal assistance, is the underlying principle that States will transmit and respond to requests efficiently and securely, including having the ability to transmit and respond to urgent requests on an expedited basis. This ideal requires well-trained and properly resourced authorities, as well as using modern technologies to transmit and respond.

Responding to question 9, the Convention should provide for parties to designate central authorities which are responsible for sending, receiving and executing mutual legal assistance requests. Central authorities should communicate directly, this will simplify and expedite requests, which are often time sensitive given the computer systems and data involved.

The mechanism of implementation provisions should seek to create an appropriate forum to facilitate ongoing discussion on best practices relating to transmission and effective responses to extradition and MLA requests. Ongoing, expert led, discussions will be required as it is likely that best practices will evolve over time, as technology and methods of security evolve.

In regards to question 12, New Zealand could support a provision that allows for rapidly expedited mutual legal assistance for disclosure of computer data in
emergency cases, for example in situations where there is a significant and imminent risk to the life or safety of an individual.

New Zealand would support establishing a 24/7 point of contact network to help facilitate effective and timely international cooperation measures. Establishment of this network would be among the most important means provided by this Convention of ensuring that Parties can respond effectively to the law enforcement challenges posed by computer, or computer-related crime.

We also note that between states there are varying degrees of capacity to resource and maintain a 24/7 single point of contact system. Therefore, we suggest that this convention’s provisions on technical assistance could be used to assist states in developing a contact point, for example through specific training programmes.

Thank you chair.