Comments of the Islamic Republic of Iran in response to the Guiding Questions presented by the Chair of the Ad hoc Committee to Elaborate a Convention on Countering the Use of ICT for Criminal Purposes to the Third Session of the Committee

Agenda Item 8: Final provisions
(29 August-9 September 2022-New York)

1. General Comment

− In our view, responding to the guiding questions under this agenda item and the approaches, structure, and formulation of the final provisions of the convention could be better provided and addressed in light of the overall content of the convention. With that in mind, we would like to touch upon a few points at this stage.

− Firstly, it was suggested by some delegations that a provision should be stipulated that would allow for the non-implementation of this convention when regional rules and treaties exist. We would like to provide our view on this proposal with due respect to the right of all states to express their positions. We are of the conviction that the implementation of the present international convention should not be prejudiced by the existence of a particular regional instrument.

− Moreover, during the sessions of the Ad hoc Committee, it was highlighted by many Member States that crimes committed via ICT know no boundaries and require genuine collective responses. The United Nations is the utmost expression of multilateralism and could therefore provide a sound international framework for international cooperation in fighting these crimes. Dividing the scope of implementation of this convention to specific geographical areas runs afoul of this sobering fact and the very rationale of resolution 74/247 which has conferred upon this Committee the task of elaborating an “international” convention.

− Therefore, while we note the prerogatives of states in applying relevant legal bases in their relations and cooperation with other states in this field, we are of the conviction that there is no need to lay down provisions relating to regional treaties
as the basis for the non-implementation of this convention. This is not to question the practical utility or the importance of regional treaties for the respective states as it has been the established practice to develop conventions at the regional and international levels on related matters but this is to avoid undermining this convention by its own provisions.

− Secondly, taking into account that the promotion of international cooperation in fighting the use of information and communications technologies for criminal purposes constitutes one of the main and underlying objectives of the convention and considering that the unilateral sanctions in flagrant violation of the fundamental principles of international law hinder cooperation among states, the implementation of this convention in good faith requires that states desist and refrain from promulgating and applying such unlawful measures. As we have reiterated before, the convention should address these challenges that impair the cooperation of states.

2. Response to the Questions related to final provisions

− On question forty-two and as to whether the convention should include a provision on the development of additional or supplementary protocols, we believe that this is contingent upon the overall substantive content of the Convention. Therefore, it may be more appropriate to address this matter at a later stage.

− With respect to the question of reservation, we believe that the Convention should allow for reservations; its formulation, details and the approach to be taken in this regard, however, need to be addressed later when the substantive provisions of the convention provide more clarity on the content of the Convention.

− On question forty-five, given the rampant and diversifying crimes committed via ICT and the importance of effective international cooperation in fighting such crimes which necessitate the existence of an international convention under the auspices of the United Nations in due time, we are of the conviction that a prolonged process of entry into force of the convention should be avoided and the number of necessary ratifications by States Parties for this purpose should be determined in a manner that would allow states parties to effectively utilize the convention at a reasonably earliest time possible.