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STATEMENT BY

MR. MOHD ISHRIN BIN MOHD ISHAK
DELEGATE OF MALAYSIA

ON

AGENDA ITEM 8: FINAL PROVISIONS

AT THE THIRD SESSION OF THE AD HOC COMMITTEE TO ELABORATE
A COMPREHENSIVE INTERNATIONAL CONVENTION
ON COUNTERING THE USE OF INFORMATION AND COMMUNICATIONS
TECHNOLOGIES FOR CRIMINAL PURPOSES

NEW YORK, 7 SEPTEMBER 2022

Madam Chair,

Malaysia’s response to question 41 is in the affirmative.

On question 42, Malaysia is of the view that this Convention may be supplemented by one or more protocols and such protocols shall be negotiated and adopted following the same procedural and organizational rules followed for the negotiation and adoption of this Convention. There should also be a provision which stipulates that State Party to this Convention is not bound by a protocol unless it becomes a Party to the protocol in accordance with the provisions thereof. Any protocol to this Convention shall be interpreted together with this Convention, taking into account the purpose of that protocol.

On question 43, the convention should allow for reservations by States Parties unless the reservation is incompatible with the object and purpose of the Convention. The limitation to reservations is by virtue of Article 19 (b) of the Vienna Convention on the Law of Treaties 1969.
On question 44, States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation or any other peaceful means subject to the agreement of the disputing parties. Any dispute between States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation or any other peaceful means within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration of which the forum of choice is to be agreed to between the disputing States Parties. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice (ICJ) by request in accordance with the Statute of the Court. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by arbitration or ICJ. The other States Parties shall not be bound by arbitration or ICJ with respect to any State Party that has made such a reservation.

On question 45, Malaysia proposes that this Convention shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession. For each State ratifying, accepting, approving or acceding to this Convention after the deposit of the fortieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State.

On question 46, the convention should definitely allow for amendments and Malaysia recommends that after the expiry of five years from the entry into force of this Convention, a State Party may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference of the Parties. An amendment adopted in should be subject to ratification, acceptance or approval by States Parties.

When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Convention and any other amendments that they have ratified, accepted or approved.

I thank you, Madam Chair.