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## A proposal on the way forward on issues related to the scope, the list of crimes, human rights and conditions and safeguards

*First: A provision allowing the extension of the mandate of the AHC to negotiate a protocol(s), supplementing the future convention (on criminalization) using the same modalities, until the CoSP is established to take over its assignments in accordance with its rules of procedures.*

### Chapter I General provisions

#### *Article 3. Scope of application<sup>1</sup>*

- 1. This Convention shall apply, in accordance with its terms, to the prevention, investigation and prosecution of the offences established in accordance with ~~articles 6 to 16 of~~ this Convention, including the freezing, seizure, confiscation and return of the proceeds of such offences.*
- 2. This Convention shall also apply to the collecting, obtaining, preserving and sharing of evidence in electronic form, ~~as provided for in the relevant articles of this Convention~~ for offences established in accordance with this Convention as well as of serious crimes, when committed through the use of [a computer system] [an information and communications technology device].*

#### *Article 5. Respect for human rights<sup>2</sup>*

*States Parties shall ensure that the implementation of their obligations under this Convention is consistent with their obligations under international human rights law.*

### Chapter II Criminalization

#### ~~*Article 17. Offences relating to other international treaties<sup>3</sup>*~~

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~~*States Parties shall adopt such legislative and other measures as may be necessary to ensure that offences established in accordance with applicable **international** conventions and protocols also apply when committed through the use of [a computer system] [an information and communications technology device].*~~

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## Chapter IV Procedural measures and law enforcement

### *Article 24. Conditions and safeguards<sup>4</sup>*

1. *Each State Party shall ensure that the establishment, implementation and application of the powers and procedures provided for in this chapter are subject to conditions and safeguards provided for under its domestic law, **which shall be consistent with its obligations under international human rights law, and which shall incorporate the principle of proportionality.***
2. *Such conditions and safeguards shall, as appropriate in view of the nature of the procedure or power concerned **and in accordance with domestic law**, inter alia, include judicial or other independent review, grounds justifying application, and limitation of the scope and the duration of such power or procedure.*
3. *To the extent that it is consistent with the public interest, in particular the proper administration of justice, each State Party shall consider the impact of the powers and procedures in this article upon the rights, responsibilities and legitimate interests of third parties-*

#### **3 bis:**

**Nothing in this Convention shall be interpreted as permitting any supervision on the implementation of this article, other than domestic supervision.**

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## Chapter V International cooperation

### *Article 35. General principles of international cooperation<sup>5</sup>*

1. States Parties shall cooperate with each other in accordance with the provisions of this Convention, as well as other applicable international instruments on international cooperation in criminal matters, and domestic laws, for the purpose of prevention, investigations, prosecutions and judicial proceedings concerning offences established in accordance with this Convention, or for the collection, obtaining, preservation and sharing of evidence in electronic form of offences established in accordance with this Convention, as well as of serious crime, including those offences ~~covered by article 17 of this Convention when applicable~~ established in accordance with applicable UN conventions and protocols, when committed through the use of [a computer system] [an information and communications technology device].

2. In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties.

3. For the purposes of the collection, obtaining, preserving, and sharing of evidence in electronic form of offences provided in paragraph 1 of this article, the relevant paragraphs of articles 40, articles 41 to 46, and the relevant parts of article 47 of this Convention shall apply.