Firstly, Angola would like to recognize and thank the commitment, professionalism and effort made by the Chair of the Ad Hoc Committee and its entire Secretariat throughout the process of elaborating and negotiating the draft of the future United Nations Convention on Countering the Use of ICT for Criminal Purposes, as well as the tireless search for consensus so that the world can soon have an international and universal instrument to effectively and efficiently combat cybercrime.

This written submission aims to address two aspects of the text of the future Convention, namely: on the reference to Human Rights, article 6; and on the relevance and scope of application of paragraph f), paragraph 2, of article 17.

Reference to Human Rights

1. Angola is of the view that respect for human rights and fundamental freedoms is already an achievement of humanity because it is based on the concept of human dignity, which is why its protection must occur both at the level of international law and at the level of domestic law.

2. Although it is not an international instrument on human rights, the future Convention, being criminal treaty, reflexively aims to protect the fundamental rights and freedoms of citizens to the extent that criminally protected legal interests invariably result from ethical values extracted from the idea of more intense protection of the dignity of the human person.

3. Therefore, Angola supports and expresses its agreement with the wording of article 6 of the UDTC.

4. However, as it is a legal instrument and taking into account that article 6 is included in the General Provisions Chapter, it is technically valid and applicable to the other chapters of the Convention, namely, Criminalization (Chapter II), Jurisdiction (Chapter III), Procedural Measures and Law Enforcement (Chapter IV), International Cooperation (Chapter V), Preventive Measures (Chapter VI), Technical Assistance (Chapter VII); Implementation Mechanisms (Chapter VIII) and Final Provisions (Chapter IX). Therefore, the references to human rights contained in articles 24, paragraph 1, 36, paragraph
15, and 40, paragraph 22, from our point of view, appear technically redundant. If the intention is to reinforce the idea of protection and respect for human rights, Angola suggests that in the aforementioned articles a reference should be made to article 6, for example: “in accordance with article 6”, “respecting the terms of article 6” or “in accordance with article 6”.

Relevance and scope of application of subparagraph f, paragraph 2, of article 17:

“The knowledge, intent or purpose required as an element of an offence set forth in paragraph 1 of this article may be inferred from objective factual circumstances. (agreed ad referendum)”

5. As agreed ad referendum, this provision is very pertinent and aims to respond to a technical problem that arises mainly for law enforcement agencies in dealing with specific processes, as the subjective element of the legal type of crime, when it refers to the intention, knowledge or purpose, is difficult to prove in court, so the wording has the merit of already indicating that the subjective element is measured by the factual and objective circumstances of the specific case.

6. However, in all articles in the criminalization chapter reference is made to intention and in some cases to dishonest or criminal intent, which will not benefit from the well drafted provision of subparagraph f), paragraph 2, of article 17, because technically it will only be applied to the crime of laundering of proceeds of crime.

7. With a view to broadening the scope of application of this provision, Angola proposes that a paragraph 2 be introduced in article 2 of the UDTC, inspired by subparagraph f, paragraph 2, of article 17, with the following wording:

“Intent, knowledge or purpose required as an element of an offence set forth articles 7 to 17 of this Convention may be inferred from objective factual circumstances.”

Angola reiterates its full support for the work that is being carried out by the Ad hoc Committee and will continue to participate in the negotiations with a constructive spirit and the search for consensus.

Angola also expresses its conviction and faith that the Draft Convention will be approved by the Ad hoc Committee during the Reconvened Concluding Session and submitted to the General Assembly in September, thus fulfilling the goal defined by the President.