

Ghana's response to the third group of questions under procedural measures of the Chair's guiding questions.

1. Which level of detail should be in the provisions on freezing, seizure and confiscation as well as the disposal of confiscated proceeds of crime or property?

a. Madam Chair, cybercrime drains billions and billions of dollars from the world's economy. Perpetrators should not be allowed to enjoy the proceeds of this crime. In response to the question on the level of detail to be adopted in the provisions on freezing, seizure and confiscation, Ghana is of the view that the Committee should adopt the level of detail in Article 31 of the United Nations Convention against Corruption. Ghana's cybersecurity Act is consistent with Article 31.

2. Should the convention contain a provision on the protection of witnesses? If yes, which factors of protection are important to include in such a provision, and what level of detail, in terms of definitions and description of related procedures, should be expected? Would the committee like to follow the formulation of UNTOC (article 24)?

a. In relation to question 2, Madam chair, protection of witness is crucial to successful investigations, prosecution of cyber offences and safeguarding human rights. Witnesses may face potential risk of intimidation due to their cooperation with the Law Enforcement Agencies with respect to investigation and prosecution and should be protected. In 2018, Ghana passed its Witness Protection Act and the provisions of the Act are consistent with Article 24 of UNTOC. Accordingly, Madam Chair we are of the opinion that the level of details as stated in Article 24 of UNTOC should be adopted.

3. Should the convention contain a provision on the assistance to and protection of victims? If yes, which factors of protection are important to include in such a provision, and what level of detail, in terms of definitions and description of related procedures, should be expected? What role should victims and reporting persons have? Would the committee like to follow the formulation of UNTOC (article 25)?

On question 3 our answer is yes, Article 25 of UNTOC should be adopted in relation to the protection of victims.

Ghana's response to the fourth group of questions under procedural measures of the Chair's guiding questions.

1. Should the convention set standards for the collection and admissibility of digital evidence in general? What would be the advantages and disadvantages of this approach?

On question 1 of the fourth group of questions Madam Chair, setting standards for the collection and admissibility of digital evidence is necessary for the successful investigations and prosecutions of the use of ICTs for criminal offences. Madam Chair, a party presenting evidence in a criminal proceeding must be able to demonstrate that it reflects the same set of circumstance and factual information as it did at the time of the offence to render it admissible in a court of Competent Jurisdiction as well as demonstrating that procedural powers complied with relevant conditions and safeguards. The intangible nature of electronic evidence makes it much easier to manipulate and more prone to alteration than traditional forms of evidence. There is therefore the need to develop or adopt standards that will ensure the integrity and credibility of the electronic evidence to ensure its admissibility. This process is paramount to the successful prosecution of cybercrimes. If we create

such standards in this convention, we would have achieved a convention that is pragmatic and addressing the needs of the Criminal Justice Sector. Madam Chair, such standards need not be prescriptive and should be technology neutral, should allow for member states to adopt in line with their domestic legislation, encouraging the preservation of the authenticity and credibility of electronic evidence, the adoption of new and innovative strategies to cater for technological developments, encourage harmonisation to support cooperation between Law Enforcement Agents and Service Providers and upholding the protection of human rights and fundamental freedoms including privacy. Overall Madam Chair, Capacity building will be crucial for the criminal justice sector as technology and the modus operandi of criminals continue at a rapid pace.

2. Question 2; Should the convention contain a provision on special investigative techniques? If yes, which ones should be referenced, and what level of detail, in terms of definitions and description of related procedures, should be expected? Would the committee like to follow the formulation of UNTOC (article 20).

In relation to question 2 on whether the convention should contain a provision on special investigative techniques. Our answer will be Yes. Madam Chair, special investigative techniques such as surveillance, undercover operations, using informants and controlled delivery in cases of online sale of illicit goods could be used amongst others alongside adopted procedural measures and powers for gathering relevant electronic evidence for the successful prosecution of cyber offences. Ghana is of the view that Article 20 of UNTOC is adequate to be adopted for this purpose. Such special investigative techniques should be carried out in accordance with the principle of Sovereign equality of States and in accordance with bilateral and multilateral agreements and arrangements as well as respect for human rights and fundamental freedoms.

3. Should the convention contain a provision on the establishment of criminal record by following the formulation of UNTOC (article 22).

On question 3, Madam Chair, our answer will be yes the convention should contain a provision on the establishment of criminal record by following the formulation of article 22 of UNTOC.

4. Should the convention contain a provision on measures to enhance cooperation with law enforcement authorities by following the formulation of UNTOC (article 26)?

On question 4, Madam Chair regarding the development of a provision on measures to enhance cooperation with law enforcement authorities consistent with article 26 of UNTOC, our answer will be Yes. Article 26 is consistent with Ghana's cybersecurity Act. Cooperation of Law Enforcement Authorities is crucial for the successful investigation, prosecution and prevention of cybercrime.

THANK YOU MADAM CHAIR.