

Philippine Intervention for the 2nd Group of Questions in Criminalization

Mister Chair,

Good afternoon.

The Philippine Delegation submits the following points for the second group of questions:

On the first question as to whether the offence of fraud is sufficient to cover other conducts such as theft, scam, financial offences and e-payment tools, we submit that is not anymore. This provision shall be couched in such a way that possible relevant manipulations are covered because perpetrators of fraudulent activities are always exploiting technologies to their advantage, or loopholes in the interpretation of broadly-defined laws.

On the second question regarding the kinds of elements should be included in the criminalization of computer/ICT-related forgery, all offenses shall be committed with intent for criminal liability to apply. Nevertheless, when implementing the offense in domestic law, parties may require in addition to the intent to defraud, before criminal liability attaches.

From an evidentiary point of view, elements of malicious or dishonest intent may include information that demonstrate actions of thought or planning to commit a cybercrime or fraudulent act.

Examples of such actions may include, but are not limited to: evidence of search patterns that were input on Internet web search engines, conducting technical experiments to see how a criminal act may play out, possessing tools that are likely useful in criminal hacking activities, engaging in communities that have a reputation of aiding or abetting cybercrime activities, broadcasting or expressing opinions or statements that promote cybercrime activities, or conducting activities that may be associated with a known committed crime.

On another matter, yes, we agree that the convention should strongly consider putting in place legal protections for qualified and recognized cybersecurity researchers, certified IT auditors, and other professionals working in the more elite levels of cybersecurity field.

On the third question, as to whether we could consider the proposed provisions on “creation and use of digital information to mislead the user”, as a form of [computer]

[ICT]-related forgery, we submit that criminalizing identity-related offences is better left to the discretion or policy of the national authorities.

For this purpose, however, "Forgery" in this context means the act of producing a copy of an electronic document or image. In contrast, "creation and use of digital information to mislead the user" is more of a misinformation problem that targets a wider range of people.

Fourth, as to the question in dealing with identity-related offences in this Convention, we submit that the inclusion of identity-related offences is justified since the scope, speed and scale of these offenses are substantially enhanced by the use of computer. Further, we recognize that identity-related offenses are a social ill that needs legal remedies for the victims, and is so wide-spread that responsible governments should fight it.

Lastly, on the justification for the inclusion of offences related to the infringement of copyrights, the Philippines is carefully considering this area and will submit our final written submission on this matter in due time.

Thank you very much, Mister Chair.