Agenda Item 4: Provisions on international cooperation (Second Group of Questions)

Regarding grounds for refusing an extradition or mutual legal assistance request covered in questions 13, 14 and 15, we can be flexible on either modelling these provisions after those under UNTOC / UNCAC, or simply deferring to the domestic legislation of the State party and applicable treaties.

With respect to Q16, we do not think we can fully consider this question at this stage where the offences have yet to be properly scoped and defined. Our preference is to leave this clause out for now and only put it to consideration once there is more clarity on the offences to be covered in this convention.

On Q17, we would like to flag that requests for assistance regarding provisional measures play a role in ensuring evidence is not destroyed and criminal assets are not moved before the MLA process can run its course. Provisional measures can include expedited preservation of data and temporary restraint of assets linked to offences established within this convention, subject to the appropriate safeguards and resource considerations. It is necessary to ensure that provisional measures can be processed in a timely manner; otherwise, they will be rendered far less effective in the context of international cooperation.

As for Q18, we can be flexible on including specific provisions on mutual legal assistance regarding investigative powers. Singapore offers a range of mutual legal assistance in respect of criminal matters, such as production orders and search and seizure.

We reiterate that it is not necessary for this Convention to include provisions related to the real-time collection and interception of data. Member States have different legal systems, policies and circumstances on real-time collection and interception of data. Including prescriptive provisions on real-time collection and interception of data in the convention could be counter-productive, as member states’ ability to implement such measures must take into consideration domestic legislation, policies and circumstances.

On Question 19, we would like to consider all the views of other Member States, and seek the Chair’s indulgence to defer our response to a later juncture. However, as a preliminary comment, we recall that one of the main aims of this Convention is to facilitate efficient enforcement against cybercrime – this should be a key consideration when discussing this issue.
With respect to Q20, we reiterate our support for this Convention to include provisions to facilitate the return of assets. Given that cybercrime often involves large sums of proceeds of crime, such as in ransomware and scam cases, provisions to facilitate the return of assets are necessary for this Convention to effectively facilitate dealings with the proceeds of crime.

Our preference is for the UNCAC approach to asset recovery, as it sets out in extensive detail the obligations relating to asset recovery and disposal. This will provide greater clarity on the process for States Parties.

In response to Q21, Singapore supports a network of 24/7 contact points to promote and facilitate international cooperation under this Convention. This will not only ensure the provision of timely assistance for the purpose of investigations, which is often critical given the speed required to respond effectively to cybercrime; it will also ultimately enhance overall law enforcement cooperation as well as information exchange downstream.

Where possible, we should utilise existing channels such as the INTERPOL I-24/7 global secure police communications system, which is currently used by law enforcement agencies to seek assistance in computer-related investigations and evidence collection and to share sensitive information quickly and securely. This is to avoid fragmentation, duplication of efforts, and the amount of resources needed.

As for Q22, we note that these provisions can be considered highly intrusive, and the legal, technical and policies may be different for Member States. In the context of cooperation at the international level, such provisions, if included in the convention, should be left to the discretion of States to implement by entering into bilateral or multilateral agreements or arrangements, or on a case-by-case basis.