



**THE FOURTH SESSION OF THE AD HOC COMMITTEE TO ELABORATE A
COMPREHENSIVE INTERNATIONAL CONVENTION ON COUNTERING
THE USE OF INFORMATION AND COMMUNICATIONS TECHNOLOGIES
FOR CRIMINAL PURPOSES**

**STATEMENT BY
MRS. ANDREA MARTIN-SWABY
ACTING SENIOR DEPUTY DIRECTOR OF PUBLIC PROSECUTIONS AND
HEAD OF JAMAICA'S CYBERCRIMES AND DIGITAL FORENSICS UNIT**

**ON BEHALF OF
THE CARIBBEAN COMMUNITY
(CARICOM)**

AGENDA ITEM 5: GENERAL PROVISIONS

PLENARY (ROOM M)

JANUARY 10, 2023

Madame Chair,

Jamaica is pleased to deliver this statement on behalf of the 14 member states of the Caribbean Community. CARICOM wishes to thank you and the Secretariat for the work done in producing a consolidated negotiating document which largely reflects the contribution of member States during the second session of the Ad Hoc Committee in May to June, 2022.

CARICOM looks forward to engaging with Member States, particularly in respect of carefully analysing the rationale provided for proposed provisions in the consolidated negotiating document.

With respect to the chapter on General Provisions, CARICOM submits the following:

CARICOM generally supports Article 1 which addresses *the Purpose* of the Convention. We have observed that while asset recovery was not included in Article 1, as proposed by CARICOM, it is referenced in Article 3. We can be flexible on placement of this important element once it is retained in the text. For CARICOM, it is necessary to include asset recovery in the Convention in order to achieve a holistic and comprehensive approach.

Madame Chair, CARICOM generally supports Article 3 on *the Scope of Application*. Notwithstanding, we make the following observations for further discussion in the Committee.

1. We note that this article does not utilise the expressed terminology "international cooperation". It would be

CARICOM's preference to include same for clarity as this is one of the foundations of the Convention.

2. It is recognized that Article 3(2) includes the critical elements of “collecting, obtaining, preserving and sharing of evidence in electronic form” as an important aspect of the application of this treaty.

CARICOM believes that the collecting, obtaining, preserving and sharing of evidence in electronic form should be applicable to a wide range of offences. The CND offers three options. At this stage, CARICOM is of the view that the proposed convention ought **not** to be more restrictive than existing international instruments with similar provisions.

3. We would not support the option of “serious crimes” as this lacks the necessary specificity. Additionally, what is deemed serious crimes would differ from jurisdiction to jurisdiction.

In relation to Article 4 which addresses *Sovereignty*, CARICOM strongly supports this provision and notes its consistency with Article 2 of the UN Charter, as well as the UNCAC and UNTOC.

With respect to human rights, CARICOM supports its inclusion in the Convention and particularly the way it is framed in Article 42 under Chapter 3 on *Procedural Measures and Law Enforcement* for the implementation of safeguards.

We maintain the view that the Convention should be implemented in accordance with obligations under international human rights law. However, we are not convinced of the need to identify groups for special consideration, as proposed in Article 5(2). We would be interested to hear from the proponents how Article 5(2) would be operationalized at the domestic level and be provided with concrete examples.

Madame Chair, CARICOM considers the chapter on general provisions, as presented in the CND, to be a very strong foundation on which delegations can have fruitful discussions.

I thank you.