



## **Intervention on General Provisions: Fourth Session of the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of ICTs for Criminal Purposes**

Chair, Excellencies, distinguished delegates,

We support the statements made by ICC as a whole and Microsoft and draw delegates' attention to our [written statement](#) for the fourth session posted on this session's webpage, especially given that in three minutes we cannot properly address our concerns. Our written submission has detailed text-based proposals.

**The proper object of the treaty is “cybercrime” and not “Information and communications technologies for criminal purposes.”** The former term is more focused and well understood in international criminal law; the latter could allow the scope of the convention to apply to any object that has integrated circuits, such as a modern calculator, which would be counterproductive on many levels. All articles should be modified accordingly, in this section Articles 1 and 3.

While we agree that definitions cannot be finalised until the text is more advanced, we think having working definitions to use as the rest of the text is negotiated will help all parties, **so we recommend that the negotiators agree that the starting place for negotiation of definitions should be those in the Budapest Convention.**

We believe the convention should focus on serious crimes.

According to estimates the global cost of cybercrime is expected to rise from \$8.44 trillion in 2022 to a staggering \$23.84 trillion by 2027, an amount larger than the GDP of the world's largest economy<sup>1</sup>. This Convention will be seen as a failure if it does not have a meaningful impact on reducing the incidences of, and impact of, serious cybercrime. Subsequent protocols to the Convention can address additional offences as required.

Article 3 should make that focus clear in two ways:

1. Removing the brackets in Article 3(2) around ‘serious crimes,’ deleting the other options;
2. The existing text in article 3(3), a modification of Article 3.2 of UNCAC, would broaden the scope of the Convention to all acts, even those which did not do harm. Either the

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<sup>1</sup> Estimates from [Statista's Cybersecurity Outlook](#).



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original text from UNCAC should be restored or this provision should be deleted.

Finally, a new provision should be added to Article 3 to ensure that activities which are conducted in good faith for legitimate purposes - such as penetration testing - do not fall within the scope of the Convention. The convention should not just avoid criminalising these activities, it should promote them by specifically protecting activities conducted for such purposes as a horizontal obligation, as well as relevant changes to specific articles.

Madame Chair, sovereignty is already a core tenet of international law; protection of it is not the point of this Convention, crime prevention and prosecution are. Extending the rights of sovereigns would actually be counterproductive in a Convention which seeks to promote collaboration on legal matters *between* sovereigns. Article four should be deleted and if it is not, it definitely should not be placed before human rights; that could give the impression that the negotiators gave greater importance to sovereignty than to human rights, and the overwhelming number of member-states have made clear that is not the intention.

Last, but definitely not least, Article 5 (respect for human rights) should become Article 4, and it should contain references to specific human rights instruments, including ICCPR and UDHR. The qualifier "applicable" should be deleted: the protection of human rights must be an integral obligation of the Convention and such a qualifier suggests that the opposite is true.

We thank delegates for their attention and recommend a review of the detailed proposals in our written submission for the fourth session.