

New Zealand statement on general provisions

Thank you chair,

We are generally supportive of the elements included within the general provisions of the draft consolidated text.

We will have specific comments on the articles once we begin the detailed discussion during the second round. But for now we would have some brief remarks on Article 2, the use of terms, and Article 5, on human rights.

Firstly, on the use of terms. The language we develop in this convention needs to be precise and well understood by all. The question we should be asking ourselves is which terms will allow us to achieve accuracy throughout the convention, and ensure we remove any ambiguity and avoid vaguely defined terminology?

We have to be sure we all have a common understanding of what we are seeking to criminalise, both to avoid unintended consequences, but also to ensure universal and consistent application across jurisdictions.

With this in mind, we are in favour of using, where possible and pertinent, well recognised terms that have been tested in other relevant international instruments, and terminology that is used widely across different states' domestic legal systems.

Chair, given there is debate over the appropriate language to describe precisely what it is we are combatting or countering, the debate over cybercrime or the use of ICTs for criminal purposes, we support the idea of commissioning an informal working group to tackle this fundamental terminology question.

Finally, we support the inclusion of Article 5 relating to human rights, and would seek to strengthen the language in the current draft. We will provide our suggestions during the second round of discussions.

This negotiation process aims to develop a comprehensive convention, with potentially unique human rights implications. We have listened carefully to many stakeholders and other member states who have raised concerns around the treatment of human rights in the convention, for example relating to intrusions on privacy and freedom of expression. Therefore, we believe it is prudent to include, and we support, a clear and unequivocal reaffirmation of existing international human rights' obligations in the general provisions of this convention, in addition to specific safeguards throughout the treaty at appropriate junctures.

During the discussion on the criminalisation chapter, we have heard some states refer to our mandate to develop a comprehensive convention. When we consider what is comprehensive, to us this does not mean a long list of criminalisation provisions. In our view, a comprehensive convention is one that contains:

1. Effective, focused, and coherent criminalisation provisions;

2. Strong human rights protections;
3. Mechanisms for international cooperation and evidence sharing;
4. Robust provisions for capacity building;
5. Future focused language to ensure it remains relevant in a world of rapidly developing technology;

Equating comprehensiveness with a long list of criminalisation provisions is missing much of the picture of what will make this convention an effective one.

Thank you chair.