

Check against delivery

**SINGAPORE'S STATEMENT
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
VIENNA, 9 JANUARY TO 20 JANUARY 2023**

Thank you, Madam Chair. Firstly, we wish everyone a Happy New Year! Second, we join others in registering our appreciation to you, your team in the Algerian Mission and the Secretariat for the arrangements for this fourth session, including presenting us with the Consolidated Negotiating Document, which we welcome as an excellent basis for our ongoing efforts to elaborate a universal convention on cybercrime.

As a general comment, Singapore's position is that this convention should focus on cyber-dependent crimes as well as certain cyber-enabled crimes that are of grave concern to the community at large. That said, we have a number of specific comments and proposals regarding the provisions in Chapter II. Given the number of Articles, and the fact that we only have one opportunity for an intervention, we seek your indulgence and your patience to put forward our views.

First, we have a proposal that would apply to articles referring to adoption of legislative or other measures to criminalise certain conduct. Specifically, we propose to replace the reference to terms like “unlawful”. “Unlawfully”, when used in domestic legislation, usually means that it is in contravention of some other written law. An act would not be unlawful until it is criminalized, which is what the Articles under the chapter on criminalization aim to achieve.

In addition, given that the Convention may be acceded to by many countries, each country may also have its own interpretation and application of what is “unlawful”. We should instead use clearer terms such as “without authority” and “unauthorized”, where appropriate. For example, the possible formulation for draft Article 6 is as follows:

“...the unauthorized access to the whole or any part of [a computer system] [an information and communications technology system/device].”

This should apply to all articles under the chapter on criminalization with the exception of Articles 10, 11, 12, 15 and 18 on “Misuse of devices and programs”, “forgery”, “fraud”, “violation of personal information” and “online child sexual abuse materials” respectively.

We would also like to elaborate when “without authority” would not be appropriate”. There are offences for which these terms are not appropriate, as certain conduct cannot be made lawful even with authority. An example would be CSAM offences, as there cannot be lawful or authorised production of such materials. We will comment on the use of such terms when we discuss these specific provisions.

Second, we support imposing an aggravated penalty for cybercrimes targeted at critical infrastructure in the convention, including in Articles 6, 8 and 9. This is in view of the grave harm and devastating consequences arising from malicious cyber activity targeting critical infrastructure, which could pose a threat not only to security but also to State sovereignty, as well as economic development and livelihoods, and ultimately the safety and well-being of individuals.

As we have mentioned earlier, Singapore is supportive of including cyber enabled crimes that are of grave concern to the international community at large. We therefore support the inclusion of Articles 11 to 13, and 15 to 16, which cover cyber theft, fraud and offences related to identity and personal information. These are crucial to combating the manifold online scams that have become a global problem.

We propose to remove Article 17 entirely. The infringement of copyright is out of place in a cybercrime treaty and is already covered under other instruments. Such discussions also belong in other relevant fora.

On Articles 18 to 20, we support the inclusion on these Articles that target the serious issue of sexual crimes related to children. We will be proposing textual amendments for this Article in due course, including that regarding the age limit in the definition of “child”.

For Articles 24 and 25, we are supportive of its inclusion, and will be proposing language for a broader definition of “intimate image” for stronger protection of victims.

On Cluster 11, we can support the Articles under this cluster with the exception of Article 35 on the liability of legal persons. We cannot support Article 35 and propose to remove it entirely. Each jurisdiction will have its own rules on when legal persons can and ought to be held liable for offences. The primary consideration for this Convention should be for the natural persons responsible for the offence to appropriately be held liable. The matter of whether the legal person is also held liable should be left for each jurisdiction in accordance with their domestic laws and framework.

For the remaining offences set out in Cluster 2 to 11 which we have yet to comment on, we are keen to hear from the States that have proposed the inclusion of such offences as to their rationale behind their proposals. For example, on Articles 14, 21 and 22, we would like to seek clarification on how these Articles fit into the Convention as a whole, and what they intend to cover.

Thank you, Madam Chair

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