



Name: Denise Bowen

Organization: Founder and CEO of DB Connect

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Dear Secretariat to the Ad Hoc Committee,

As a member of the cybercrime committee, I, Denise Bowen, hereby introduce myself as the Founder and Chief Executive Officer of DB Connect, a startup situated in Manhattan, New York City. In my additional capacity as a startup advisor for Harvard University Alumni in Tech, judge for Grammy award-winning Pharrell Williams' non-profit initiative Black Ambition, mentor for organizations such as WomenTech Network, Verizon, and Black Girls in Cyber with sponsors including Google and Nike, where I provide assistance to women of color seeking to transition into entry-level Cybersecurity, Privacy and STEM careers, subject to the laws and regulations governing such activities, and ambassador for Togetherband in collaboration with the UN Foundation, Global Citizen, and the UN Environment, I pledge to utilize my expertise and skills to contribute to the prevention and mitigation of cybercrime. I hereby request to be listed as a multi-stakeholder under DB Connect.

After having reviewed the notes provided by the General Secretariat regarding the draft convention, I would like to offer several suggestions aimed at enhancing the convention's linguistic and substantive efficacy to promote intergovernmental collaboration in the fight against cybercrime. It is my belief that such alterations are necessary in order to achieve a shared policy on criminality that prioritizes the safeguarding of society against the dangers of cybercrime, chiefly by implementing adequate legal frameworks and strengthening cooperative measures.

Report on Proposed Changes to the Convention on Cybercrime

Proposed Amendments to Article 56: Offenses Covered and Considerations for Providing Assistance

- Article 56(1): Proposal to replace "offenses set forth in this Convention" with "any criminal offense" to expand coverage of the convention.
- Article 56(1): Proposal to replace "serious crimes" with a more precise term to clearly outline the types of offenses covered.
- Article 56(3): Proposal to add a clause requiring consideration of the gravity of the offense and its impact on society when determining assistance.

Proposed Amendments to Article 57 for Ensuring Adequate Protection of Personal Data

- Article 57(1): Recommendation to amend language to ensure personal data is only used for requested purposes.
- Article 57(1): Proposal to add a clear definition of "imminent and serious threat to public safety" to avoid ambiguity.
- Article 57(3): Proposal to revise to include provision on mandatory use of encryption and security measures when transmitting personal data between State Parties.

Cluster 3: Concerns and Proposed Amendments to Article 58 of the Draft Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes

Although the current version of this article covers some important aspects of extradition, it lacks clarity and consistency. To pursue a common criminal policy aimed at the protection of society against cybercrime, especially by adopting appropriate legislation and fostering cooperation between member states, I suggest that we amend the article as follows:

I propose that we clarify the conditions for extradition, as outlined in paragraph 1. In particular, we should specify the types of criminal offenses that can be subject to extradition and their punishment. Secondly, we should include provisions that enable States Parties to apply this Convention to extradite individuals who are not present within their territories but are suspected of committing cybercrime. Furthermore, we should add provisions that guarantee the fair treatment of persons involved in such proceedings. These amendments will ensure that the Convention provides a comprehensive legal framework for combating cybercrime and will facilitate cooperation between member states.

Proposed Amendment to Article 60: Transfer of Criminal Proceedings

I propose that Article 60 of the current draft be amended to require the transfer of criminal proceedings in cases where a State Party has a more significant interest in the prosecution of the offense. This amendment will allow for the efficient administration of justice, particularly in cases where multiple jurisdictions are involved.

Amendments to Article 61 on General Principles and Procedures Relating to Mutual Legal Assistance

To ensure that States Parties afford one another the widest measure of mutual legal assistance, I propose that Article 61 be amended to require that States Parties provide mutual legal assistance to each other in investigations, prosecutions, and other proceedings relating to offenses established under the Convention. This amendment will ensure that States Parties are fully cooperating to combat cybercrime.

Amendment to Article 61, Paragraph 6, for Enhanced Cooperation between States Parties

To enhance cooperation between States Parties, I propose that Article 61, Paragraph 6, be amended to allow the requested State Party to provide assistance even when the conduct involved would not constitute an offense under the domestic law of the requested State Party. This amendment will ensure that States Parties do not refuse assistance solely on the grounds of dual criminality.

Amendment to Article 61, Paragraph 7, for the Transfer of Detained Individuals in Relation to Offenses Established under the Convention

I propose that Article 61, Paragraph 7, be amended to require the transfer of detained individuals for the purposes of identification, testimony, or obtaining evidence in investigations, prosecutions, or other proceedings in relation to offenses established under the Convention. This amendment will ensure that States Parties cooperate in the most effective way possible.

Amendment to Article 61, Paragraph 8, for Specifying Authority and Obligation in the Transfer of Individuals

To ensure the efficient and effective operation of the Convention, I propose that Article 61, Paragraph 8, be amended to specify the authority and obligation of the State Party to which a person is transferred. The amendment will also require that the State Party transfer the individual back to the State Party from which

they were transferred, once the transfer is no longer needed. This amendment will ensure that all States Parties are complying with the Convention in the same way.

Proposed Amendments to Articles 70 and 71 of the Convention for the Pursuit of Common Criminal Policy Aimed at Protection Against Cybercrime

In this report, I provide suggestions for the improvement of Articles 70 and 71 of the Convention, with the aim of pursuing a common criminal policy that protects society against cybercrime. The proposed amendments aim to adopt appropriate legislation and foster cooperation among States Parties.

Amendment to Article 70, Mutual Legal Assistance in Accessing Stored Electronic Information

This section offers a review of Article 70 and suggests an amendment to paragraph 1. The proposed change recommends replacing the phrase "by means of a [computer system] [information and communications technology system/device]" with "by means of an electronic or digital device." This amendment will broaden the scope of the article to cover a wider range of devices, including tablets and smartphones.

Amendment to Article 71, Emergency Mutual Legal Assistance in the Expedited Production of Stored Electronic Information

This section offers a review of Article 71 and provides suggestions for its improvement. The proposed changes include adding language to specify that the request for assistance should only be made in situations where the delay caused by following regular procedures would harm the investigation or prosecution of the crime. Furthermore, the proposed changes aim to clarify that the state may only delay disclosure of the requested information if the emergency mutual legal assistance request is made promptly after the initial request. Finally, the proposed amendment aims to revise paragraph 4 to include measures that ensure that service providers respond to requests made in accordance with paragraph 1 in a timely manner.

Article 73: Real-time Information Collection of Traffic for a Common Standard

To ensure a common standard, I recommend that we substitute the term "information" for "data" to describe the real-time collection of traffic associated with specified communications transmitted by means of an information and communications technology system/device in Article 73. Additionally, we should specify that any such collection must be done with due regard for the right to privacy.

Article 74: Interception of Information in Electronic/Digital Form

In Article 74, I propose that we use the term "information in electronic/digital form" instead of "content data" to ensure clarity. Furthermore, we should include a clause that stipulates that any interception of such data must be carried out in compliance with domestic laws and international treaties.

Article 75: Law Enforcement Cooperation to Enhance the Effectiveness of Action

To enhance the effectiveness of law enforcement action, States Parties must cooperate closely with one another under Article 75. However, such cooperation must be carried out in a manner that is consistent with domestic legal and administrative systems. Therefore, we should add a clause that emphasizes that cooperation should be conducted in a manner that protects human rights.

Article 76: Public-Private Partnerships to Enhance Investigation of Cybercrime

To enhance the investigation of cybercrime, States Parties should collaborate through public-private partnerships to conclude bilateral and multilateral agreements or arrangements with relevant service

providers in their respective territories under Article 76. However, such cooperation must be transparent and accountable. Therefore, we should add a clause that stresses that any such cooperation must comply with domestic and international human rights law.

Article 79: Technical Assistance for the Recovery of Property

This article should include a provision obligating States Parties to provide technical assistance to each other to trace and recover property obtained through criminal means.

Article 80: Direct Recovery of Property by Victims

This article should be amended to allow victims of cybercrime, whether individuals or organizations, to initiate legal action in the courts of the State Party where the crime was committed to establish a property right violated due to the offense covered by the Convention.

Article 81: Mechanisms for Recovery of Property through International Cooperation in Confiscation

This article should mandate each State Party to ensure its competent authorities have the necessary tools and resources to carry out an order of confiscation issued by a court of another State Party. Additionally, States Parties should ensure that the recovery process is not hindered by differences in their respective laws.

Article 82: International Cooperation for Confiscation

This article should be amended to include a provision mandating States Parties provide each other with technical assistance to identify, trace, freeze, or seize proceeds of crime, property, equipment, or other instrumentalities referred to in article [50] of the Convention.

Option 1 of Article 95: Conference of the States Parties to the Convention

This option establishes a more detailed Conference of the States Parties to the Convention, with specific measures to improve capacity and cooperation among States Parties to achieve the Convention's goals.

Recommendation for Pursuing a Common Criminal Policy Aimed at Protecting Society Against Cybercrime

After reviewing both options for Article 95, I recommend that the Committee adopt Option 1 of the Conference of the States Parties to the Convention. This option provides for detailed activities, procedures, and methods of work, as well as review mechanisms for assessing the Convention's effectiveness and improving its implementation, which is essential for pursuing a common criminal policy aimed at protecting society against cybercrime.

Article 97: Establishment of a Central Authority

I recommend the addition of a provision that requires each State Party to establish a central authority responsible for coordinating the implementation of the Convention, such as the establishment of a cybercrime task force.

Article 98: Cooperation and Exchange of Information

I propose revising this article to include a provision that encourages States Parties to cooperate and exchange information with each other in the prevention and investigation of cybercrime.

Article 99: Compliance with Protocols

I suggest adding a provision that requires States Parties to take measures to ensure that their domestic laws are in compliance with the protocols adopted in accordance with this Convention.

Article 100: Cooperation in Investigation and Prosecution

I propose adding a provision requiring States Parties to cooperate in the investigation and prosecution of cybercrime, including the extradition of suspects and sharing of evidence.

Article 102: Review and Technical Assistance

I suggest adding a provision requiring States Parties to periodically review and update their laws and regulations to ensure they are in compliance with the Convention, and to provide technical assistance and capacity building to developing countries to help them implement the Convention.

In light of the increasing prevalence and severity of cybercrime, it is imperative that the Convention include comprehensive and robust mechanisms to address this threat. As a member of the Cybercrime Committee for the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes, I have proposed amendments to several articles of the Convention to improve international cooperation, establish effective measures for the recovery of property obtained through criminal means, and ensure compliance with the Convention and its protocols. The changes that I have suggested are aimed at striking a balance between preventing and combating cybercrime and protecting human rights. With the adoption of these proposals, State Parties will be able to tackle the challenges posed by cybercrime more effectively and comprehensively.