



**GLOBAL
INITIATIVE**
AGAINST TRANSNATIONAL
ORGANIZED CRIME

PROVISIONS ON STATEMENT OF PURPOSE, USE OF TERMS, PROTECTION OF SOVEREIGNTY, JURISDICTION, SCOPE OF APPLICATION, SCOPE OF PROCEDURAL MEASURES, GENERAL PRINCIPLES OF INTERNATIONAL CO-OPERATION, OFFENCES RELATING TO OTHER INTERNATIONAL TREATIES, RELATION WITH PROTOCOLS, RESPECT FOR HUMAN RIGHTS AND CONDITIONS AND SAFEGUARDS

GROUPS 1-5

STATEMENT

GLOBAL INITIATIVE AGAINST TRANSNATIONAL ORGANIZED CRIME

**Sixth Session of the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes
New York, 21 August – 1 September 2023**

Thank you very much chair for the opportunity for multistakeholders to contribute. We offer the following recommendations for Groups 1-5.

Group 1: Article 1. Statement of purpose

Technology transfer in the purpose dramatically changes the purpose of the treaty and extends beyond a criminal justice treaty. Given that the measures of the treaty are still under debate, as are the scope of it being 'cybercrime' vs 'crimes committed using ICT', what technology this refers to is unclear, as are the obligations this would impose for states when the treaty is implemented in practice.

Group 2: Article 2. Use of terms

Serious crimes: We suggest adding after "deprivation of liberty of at least four years" the phrase in alignment with international human rights standards. This will help to avoid an open-ended definition that allows for content-related crimes or rights abuses to be perpetrated through this treaty.

If Capacity Building is added to the scope, there could be a definition added in the terms section, since these two can be used interchangeably, and the difference would be relevant as to why it is added.

Group 4: Articles Relating to the scope of the treaty

While listening to states' positions on scope of crimes covered in this convention, there is still quite a bit of confusion about scope.

Article 23 obligates state parties to this treaty to modify their domestic law. While any state has the right to expand beyond the scope of this treaty, the current wording *necessitates* changes to domestic law for the measures in the chapter for ANY crime. That would surely not be a cybercrime treaty as such. And one might assume it will bring pause to governments when it comes time to ratify.

For this reason, we:

- Support the removal of Article 23 subpara 2.b.
- Support changing Article 23 2.c to serious crimes, if the definition of serious crimes adds protections beyond a definition set forth as a prison term length.

Our central preference would be that:

- Once a final list of crimes are settled upon in the Criminalization chapter, that should be the scope for cooperation for this treaty. Which means, removing references to “any criminal offense”, “other criminal offenses” and serious crimes.

If these differences are not addressed and understood during this process, it will hold back cooperation in implementation. Future Conferences of State Parties will be consumed by resolutions trying to either reign back the excesses of the treaty while others will use COSPs to clarify just how far the scope goes with terms like “any and other criminal offenses”. Getting to work on cooperative implementation will be hindered from the beginning.

Group 5: Human rights and safeguards

We align with groups requesting to retain and strengthen references to human rights and safeguards and refer to our submission for ideas on placement to strengthen adherence to these principles across the treaty. Namely:

- At present, Article 24 does not apply across the draft treaty but only to Chapter IV.
- Chapter V does not have a chapeau article on safeguards and contains multiple ways of describing when a request for cooperation may be refused and under what conditions.
- To close these gaps, Article 24 should apply across the treaty to international cooperation and technical assistance, and in this respect it is recommended that it should be moved to Chapter I: General provisions.