

JAMAICA’S COMMENTS
ON THE SCOPE, OBJECTIVES AND STRUCTURE OF AN INTERNATIONAL
CONVENTION ON COUNTERING THE USE OF INFORMATION AND
COMMUNICATIONS TECHNOLOGIES FOR CRIMINAL PURPOSES

Pursuant to the request of the Secretariat of the Ad Hoc Committee for States to provide comments on the scope, objectives and structure of an international convention on countering the use of information and communications technologies for criminal purposes, the following views are being submitted:

Jamaica looks forward to cooperating with other UN Member States to contribute to the work being undertaken to draft a Convention on Cybercrime. We are expectant of a Convention that will serve the global community by seeking to protect citizens from cyber threats or other criminal attacks and which will receive universal acceptance and ratification. Jamaica welcomes the involvement of civil society experts in the field to inform our deliberations.

Jamaica views this process of developing a Convention on countering the criminal use of ICTs, as an important step in the global response to the problems States experience because of this threat. The objective of a Convention was aptly outlined in the 2015 consensus report of the Group of Governmental Experts on *Advancing Responsible State Behaviour in Cyberspace in the Context of International Security*, which provided in relevant part:

“13. (d) States should consider how best to cooperate to exchange information, assist each other, prosecute criminal use of ICTs and implement other cooperative measures to address such threats”

Cooperating to exchange information to assist States to combat and prosecute the criminal use of ICTs, ought to be the overarching objective of the Convention. Flowing from this, is the objective of increasing understandings

among States about the varying perspectives on cybercrime. It is hoped that this will lead to the harmonization of approaches, creating an international framework, which will work for all. The success of this objective, however, depends on a process that considers the positions of all States, including Small Island Developing States (SIDs), in a balanced, fair, transparent, and inclusive manner.

Account should be taken of other processes that can contribute, but not unduly delay making progress towards concluding a Convention. The timelines agreed for negotiations and completion of the draft Convention should be adhered to as a demonstration of the seriousness with which we take combatting cybercrime.

It is understood that definition of terms is the starting point of negotiations. Terms establish the scope of the Convention and are important to achieve the shared objectives of the participants. As such, definitions should be clear, distinct, and carefully crafted to avoid being unduly restrictive or unduly broad, but suitable for the context and purpose of the Convention.

Countering the use of ICTs for criminal purposes is a broad mandate. The offences must therefore be future proof. They ought to be framed in a manner that does not limit the meanings to existing technologies, but instead ought to be capable of being interpreted sufficiently to keep pace with future technologies and the constantly evolving ICT environment.

The Convention should feature offences which strengthen the toolkits available to countries to target cybercrime, and which do not infringe upon the fundamental rights and freedoms of persons but seek to promote the

observance of and respect for these rights. Consideration should therefore be given to International Treaties on Human Rights.

The provisions of a new Convention should have due regard to the principle of state sovereignty as well as other principles outlined in the United Nations Charter and International Law, on matters of criminal procedure, enforcement, and international cooperation.

Jamaica believes that international cooperation must be adequately addressed in the Convention as this would encourage increased collaboration in the global fight against cybercrime. Where no mutual legal assistance treaty exists between States, the Convention ought to guide States on the process to make requests and to respond to requests. This should include matters such as the responsibility for costs.

The Convention must recognise the diverse capacities of States, which in turn impact their ability to cooperate as extensively as would be required for optimal results. It is therefore crucial that technical assistance is made available to build capacities to strengthen States' abilities to contribute more to the global framework to fight cybercrime. In this regard, capacity building should be sustainable, have a clear purpose, correspond to domestic needs, and meet the objective of human resource development in this specialized area. Consideration should also be given to establishing a funding mechanism to support the capacity building for the implementation of the Cybercrime Convention.

October 2021