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**Commission on Crime Prevention
and Criminal Justice****Twenty-fourth session**

Vienna, 18-22 May 2015

Agenda item 7*

**World crime trends and emerging issues and responses
in the field of crime prevention and criminal justice****Non-paper submitted by Brazil reflecting its views on the
issue of cybercrime****

1. Cybercrime is a particularly serious form of new and emerging crime confronting the international community. By definition, addressing the challenge of cybercrime requires enhanced international cooperation. This form of transnational crime demands truly global responses.
2. Without detriment to the contribution of other forms of international cooperation, Brazil considers that it would be essential to negotiate a multilateral instrument to combat cybercrime, under the aegis of the United Nations. Cybercrime requires new and more agile forms of international legal and police cooperation. All countries face complex challenges in investigating and obtaining evidence in digital environments. More traditional international cooperation proceedings are often limited.
3. In Brazil's view, such a multilateral instrument should focus on procedural issues, such as mutual legal assistance tools or cooperation to collect evidence — building on and expanding, as appropriate, existing multilateral tools. Specific definitions of what should be considered as a cybercrime should be left to the sphere of domestic legislation. Brazil also considers that such new multilateral instrument should carefully reflect an adequate balance between law enforcement measures and respect for Human Rights, especially the right to privacy. It should also be in line with a model of internet governance that is multilateral, democratic, transparent and multisectoral, in accordance with the Tunis Agenda for the Information Society, and therefore consistent with the model of internet governance adopted in Brazil.

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4. While Brazil appreciates that international instruments to counter this challenge have already been signed and implemented, it also considers that a multilateral legal framework would be the best possible response by the international community. Brazil recognizes the fact that the members of the Council of Europe and a number of other countries consider that the Budapest Convention is already the global response. In Brazil's view, however, the approach taken by this Convention in its Section 1 is not appropriate. Brazil does not see the rationale to single out some particular forms of cybercrime for definition and inclusion in the Convention. Moreover, Brazil did not have an opportunity to contribute to the negotiations, and it considers that no regional or international forum, no matter how important and representative it could be, is a substitute for the United Nations as the legitimate forum for the negotiation of global legal frameworks.

5. Brazil does not consider that an eventual multilateral legal instrument on cybercrime and existing, or under negotiation, instruments of a more limited regional or international scope would be mutually exclusive. Brazil is of the view that the concept of different "speeds" or "layers" would be relevant in this case. A future multilateral legal instrument could be the common minimum denominator to promote enhanced judiciary and police cooperation, without detriment to the possibility of groups of like-minded countries having parallel instruments addressing additional topics.

6. Brazil recognizes that at this moment there is no global consensus on the way forward, but will continue to contribute to and engage in the discussion of this issue at the CCPCJ and the Open-ended intergovernmental expert group to conduct a comprehensive study of the problem of cybercrime, among other relevant forums.