

# Project on Cybercrime

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## **12th UN Congress on Crime Prevention and Criminal Justice (Salvador, Brazil, 12-19 April 2010)**

### **Summary of outcome regarding cybercrime<sup>1</sup>**

The UN Crime Congress held intensive discussions on cybercrime in Committee II (agenda item 8. recent developments in the use of science and technology by offenders and by competent authorities in fighting crime, including the case of cybercrime) and in the negotiation of the political “Salvador Declaration”.

In Committee II some speakers argued for the preparation of a new treaty on the grounds that this would enhance ownership also of developing countries, while others underlined the need for operational action on the basis of existing instruments and in particular the Budapest Convention on Cybercrime. Those favouring a new treaty were not specific as to:

- what kind of treaty they would wish to see (a Budapest-type cybercrime treaty of the United Nations, a treaty on “cyber-terrorism” or on “cyber-warfare” or on incidents response or other),
- how questions could be addressed in the United Nations context that are difficult enough to solve at domestic and regional levels (such as extraterritorial jurisdiction and national sovereignty issues resulting from it, issues pertaining to human rights, privacy and national security; and the necessary involvement of the private sector in an intergovernmental negotiation process),
- what countries should do pending the results of multi-year negotiations (discontinue their efforts or implement the Budapest Convention in the meantime?), and
- whether it would be wise to engage in the drafting of a complex treaty without any preparatory work.<sup>2</sup>

There was, however, general agreement on the need for technical assistance to build criminal justice capacities to cope with cybercrime. Specific reference was made by some speakers to the outcome of the Octopus conference. The discussions in Committee II are reflected in the draft report [A/CONF.213/L.4/Add.1](#). This document, in Paragraph 17, proposes the preparation of an Action Plan for capacity building. While the draft version made specific reference to UNODC/Council of Europe cooperation and the Budapest Convention, the (yet unedited) final version is more general:

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<sup>1</sup> Informal summary prepared by the Project on Cybercrime. This document does not necessarily reflect official positions of the Council of Europe.

<sup>2</sup> It should be noted that the Budapest Convention (2001) was preceded by more than twelve years of preparatory work at the Council of Europe during which several analytical reports were adopted and soft-law instruments prepared.

17. States should develop and strengthen long-term and sustainable capacities. Technical assistance, in particular for capacity-building and legislative drafting, as well as material resources and trained experts were urgently needed in developing countries. The United Nations Office on Drugs and Crime should continue to cooperate with relevant organisations to provide technical assistance in that regard, in particular taking into account technical assistance programs and legal instruments of other inter-governmental organisations. The development of an action plan for capacity-building at the international level should be given careful consideration.

The compromise reached regarding cybercrime in the [political Salvador Declaration](#) is reflected in paragraphs 41 and 42:

41. We recommend that the United Nations Office on Drugs and Crime, upon request, provide, in cooperation with Member States, relevant international organizations and the private sector, technical assistance and training to States to improve national legislation and build the capacity of national authorities, in order to deal with cybercrime, including the prevention, detection, investigation and prosecution of such crime in all its forms, and to enhance the security of computer networks.

42. We invite the Commission on Crime Prevention and Criminal Justice to consider convening an open-ended intergovernmental expert group to conduct a comprehensive study of the problem of cybercrime and responses to it by Member States, the international community and the private sector, including the exchange of information on national legislation, best practices, technical assistance and international cooperation, with a view to examining options to strengthen existing and to propose new national and international legal or other responses to cybercrime.

In short: broad agreement on technical assistance and capacity building as well as public-private cooperation, but no agreement on the preparation of a new treaty.

The [Octopus Conference](#) (23-25 March 2010), and the Secretariat of the Council of Europe (submission of the [Secretary General to the UN Crime Congress](#), statement of Director General [Philippe Boillat at the Congress](#)) had argued that a global capacity building effort based on existing instruments was the most effective way ahead. The UN Crime Congress confirmed this as the most feasible option.

Discussions will continue at the UN Crime Commission in Vienna from 17 to 21 May and certainly in the years ahead.

In the meantime, countries and organisations need to prepare to respond as soon as possible to the call for capacity building. Resources will need to be mobilised in particular by European Union and other developed countries that took position in favour of implementing existing instruments.

The Council of Europe will continue to offer assistance through the Project on Cybercrime and other projects in partnership with public and private sector partners.