

Harmonizing National Legal Approaches on Cybercrime

WSIS Thematic Meeting on Cybersecurity

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Background of issues for discussion

- What is cybercrime?
- Cybercrime are global crimes

International recommendations

- United Nations Efforts
- General Assembly Resolutions
- World Summit on the Information Society
- Expert Group
- ITU Standards and Working Groups
- United Nations Crime Congresses
- Other United Nations Efforts

The G8 Countries

- The Subgroup of High-Tech Crime, 1997
- Meeting in Washington D.C. May 2004:
 - *“With The Council of Europe’s Convention on Cybercrime coming into force on July 2004, we should take steps to encourage the adoption of the legal standards it contains on a broad basis”*

Commonwealth Model Legislation

- A Model Law at the Conference of Ministers in 2002
- Computer and Computer Related Crimes Act
- Adapt framework legislation compatible with other Commonwealth countries

The Organization of American States (OAS)

- Group of Experts on Cybercrime 1999
- Meeting of Ministers of Justice, April 2004:
- “That Member States evaluate the advisability of implementing the principles of the Council of Europe Convention on Cybercrime (2001), and consider the possibility of acceding to that convention”

The European Union

- A Proposal from the Commission of April 19, 2002, for a Council Framework Decision on attacks against information systems, including in 2003:
 - Art. 2: Illegal access to Information Systems
 - Art. 3: Illegal Systems Interference
 - Art. 4: Illegal Data Interference

Cooperation (APEC)

- Meeting in Mexico , October 2002
- Ministerial Meeting, Chile, November 2004:
- *“Strengthen the respective economies ability to combat cybercrime by enacting domestic legislation consistent with the provisions of international legal instruments, including the Convention on Cybercrime (2001) and relevant UN General Assembly Resolutions.”*

The Council of Europe Convention

- A Committee of Experts on Crime in Cyberspace established in 1997
- The Convention on Cybercrime, 2001
 - Signed by 32 States
 - Ratifications / Accessions by 10 States
 - Additional Protocol

Convention

- Chapter 1: Use of terms
- Chapter 2: Substantive criminal law
 - Procedural law
- Chapter 3: International co-operation
- Chapter 4: Final provisions

work on Cybercrime

- G8 Countries
- Commonwealth Model Legislation
- Organization of American States (OAS)
- European Union
- Asian Pacific Economic Cooperation (APEC)
- Organization for Economic Cooperation and development (OECD)

Conferences

- The Wurzburg Conferences, 1992
- The Stanford Conference on International Cooperation to Combat Cyber Crime and Terrorism, 1999

Substantive criminal law

- Illegal access
- Illegal interception
- Data interference
- System interference
- Misuse of devices
- Computer-related forgery
- Computer-related fraud

Procedural law

- General principles
- Expedited preservation
- Production order
- Search and seizure
- Real-time collection and interception
- Jurisdiction

Mutual Legal Assistance Agreements

- Assistance in cybercrime cases
- Council of Europe Convention
- Interpol
- 24/7 Networks

Protection of Individual Rights

- Universal Declaration on Human Rights
- International Covenant on Civil and Political Rights
- Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms
- Convention on Cybercrime Article 15

Courts Case Laws

- Standardization of Supreme or High Courts decisions published on the Internet
- Integration – Retrieval Systems
- Search Technology Solutions

Discussion Question 1

- What additional topics in cybercrime law are not already covered in current international frameworks?

Discussion Question 2

- What levels of technical assistance are available under current frameworks?
- Are those technical assistance means sufficient?

Discussion Question 3

- What additional procedural areas require greater harmonization to meet today's needs?

Discussion Question 4

- How can countries cooperate in areas where they have very different legal traditions and no basis for substantive cooperation?

Discussion Question 5

- Should a United Nations Convention on Cybercrime be established as a supplement to the Council of Europe Convention?
- (Stein Schjolberg 2005)

Discussion Question 6

- Should the jurisdiction of the International Criminal Court include cyberterrorism and serious cybercrim
- (Stein Schjolberg 2005)

Cybercrime Law A Global Survey

- www.cybercrimelaw.net

- *Information on cybercrime laws in 71 countries*

- www.globalcourts.com

- *Access to Supreme Court and High Court decisions in 105 countries*