



GLACY

Global Action on Cybercrime
Action globale sur la cybercriminalité

Funded
by the European Union
and the Council of Europe



Implemented
by the Council of Europe

GLACY Getting Started

Dakar, Senegal, 24-27 March 2014

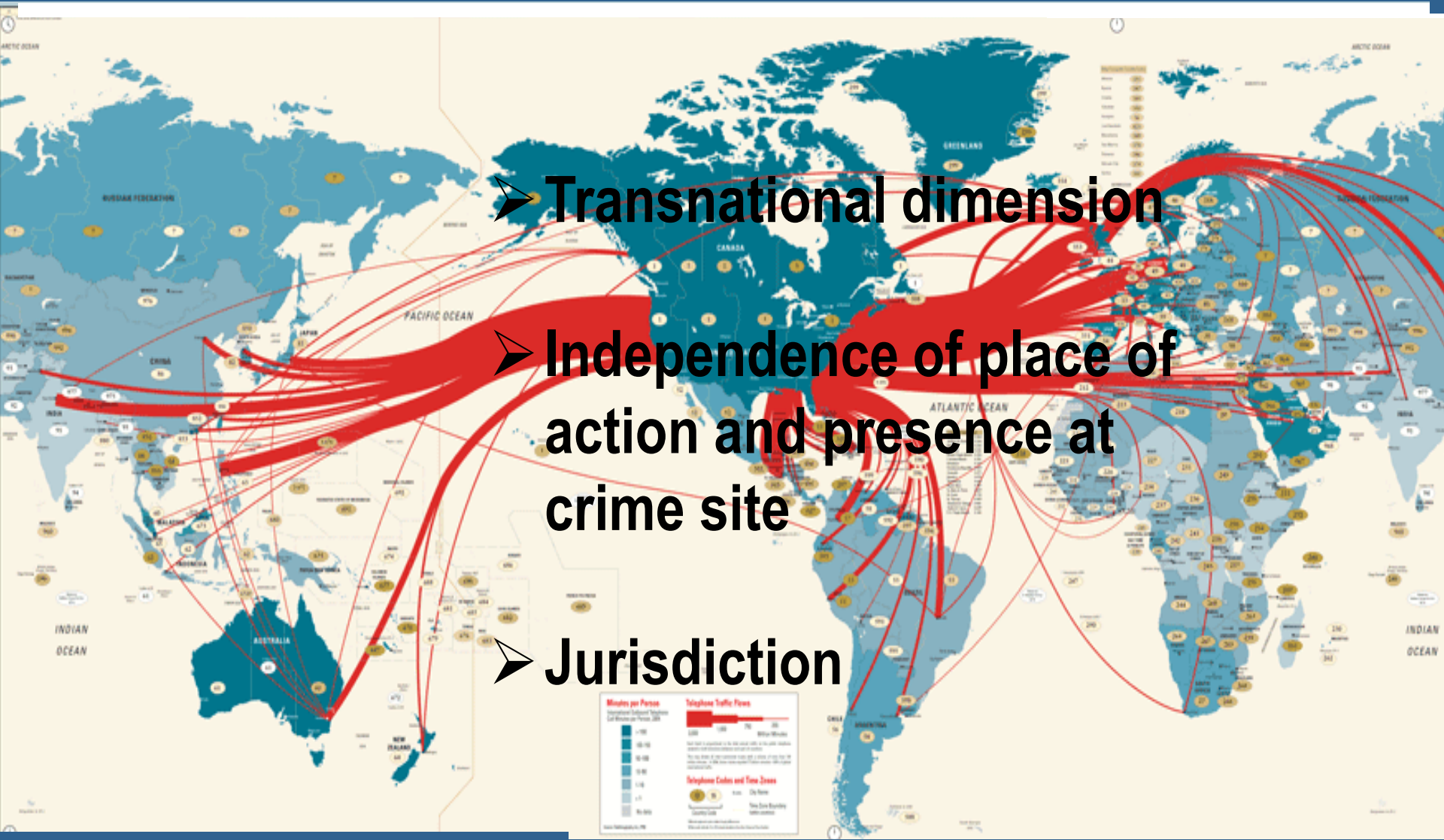
International cooperation on cybercrime and electronic evidence

Alexander.seger@coe.int

www.coe.int/cybercrime



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➤ **Transnational dimension**

➤ **Independence of place of action and presence at crime site**

➤ **Jurisdiction**

Contents of the Budapest Convention

Criminalising conduct

- Illegal access
- Illegal interception
- Data interference
- System interference
- Misuse of devices
- Fraud and forgery
- Child pornography
- IPR-offences

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Procedural tools

- Expedited preservation
- Search and seizure
- Interception of computer data

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International cooperation

- Extradition
- MLA
- Spontaneous information
- Expedited preservation
- MLA for accessing computer data
- MLA for interception
- 24/7 points of contact

Harmonisation



Droit pénal matériel

- Article 2 - Accès illégal
- Article 3 - Interception illégale
- Article 4 - Atteinte à l'intégrité des données
- Article 5 - Atteinte à l'intégrité du système
- Article 6 - Abus de dispositifs
- Article 7 - Falsification informatique
- Article 8 - Fraude informatique
- Article 9 - Pornographie enfantine
- Article 10 - Infractions liées aux atteintes à la propriété intellectuelle et aux droits connexes

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Droit procédural

- Article 14 - Portée d'application
- Article 15 - Conditions et sauvegardes
- Article 16 - Conservation rapide de données
- Article 17 - Conservation et divulgation rapides
- Article 18 - Injonction de produire
- Article 19 - Perquisition et saisie de données
- Article 20 - Collecte en temps réel des données relatives au trafic
- Article 21 - Interception de données relatives au contenu

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Coopération internationale

Section 1 – Principes généraux (Articles 23 – 28)

Section 2 – Dispositions spécifiques (Articles 29 - 35)

- Art 29 - Conservation rapide
- Art 35 - Réseau 24/7

Harmonisation

Budapest Convention: International cooperation provisions

Article	Budapest Convention	
Art. 23	General princip. (subsidiarity)	Principes généraux relatifs à la coopération internationale
Art. 24	Extradition	Extradition
Art. 25	General rules	Principes généraux relatifs à l'entraide
Art. 26	Spontaneous information	Information spontanée
Art. 27	MLA in absence of treaty	Procédures relatives aux demandes d'entraide en l'absence d'accords internationaux applicables
Art. 28	Confidentiality	Confidentialité et restriction d'utilisation

Budapest Convention: International cooperation provisions

Article	Budapest Convention	
Art. 29	Expedited preservation	Conservation rapide de données informatiques stockées
Art. 30	Partial disclosure traffic data	Divulgence rapide de données conservées
Art. 31	MLA accessing data	Entraide concernant l'accès aux données stockées
Art. 32	Transborder access	Accès transfrontière à des données stockées, avec consentement ou lorsqu'elles sont accessibles au public
Art. 33	MLA collection traffic data	Entraide dans la collecte en temps réel de données relatives au trafic
Art. 34	MLA interception content	Entraide en matière d'interception de données relatives au contenu
Art. 35	24/7 point of contact	Réseau 24/7

Treaty open for accession (article 37)

[le] « Conseil de l'Europe peut, après avoir consulté les Etats contractants à la Convention et en avoir obtenu l'assentiment unanime, inviter tout Etat non membre du Conseil, n'ayant pas participé à son élaboration, à adhérer à la présente Convention »

Phase 1:

- A country with legislation in place or advanced stage
- Letter from Government to CoE expressing interest in accession
- Consultations (CoE/Parties) in view of decision to invite
- Invitation to accede

Phase 2:

- Domestic procedure (e.g. decision by national Parliament)
- Deposit of the instrument of accession

Parties/observers of Budapest Convention

Parties:

- **European States**
- **Australia**
- **Dominican Republic**
- **Japan**
- **Mauritius**
- **Panama**
- **USA**

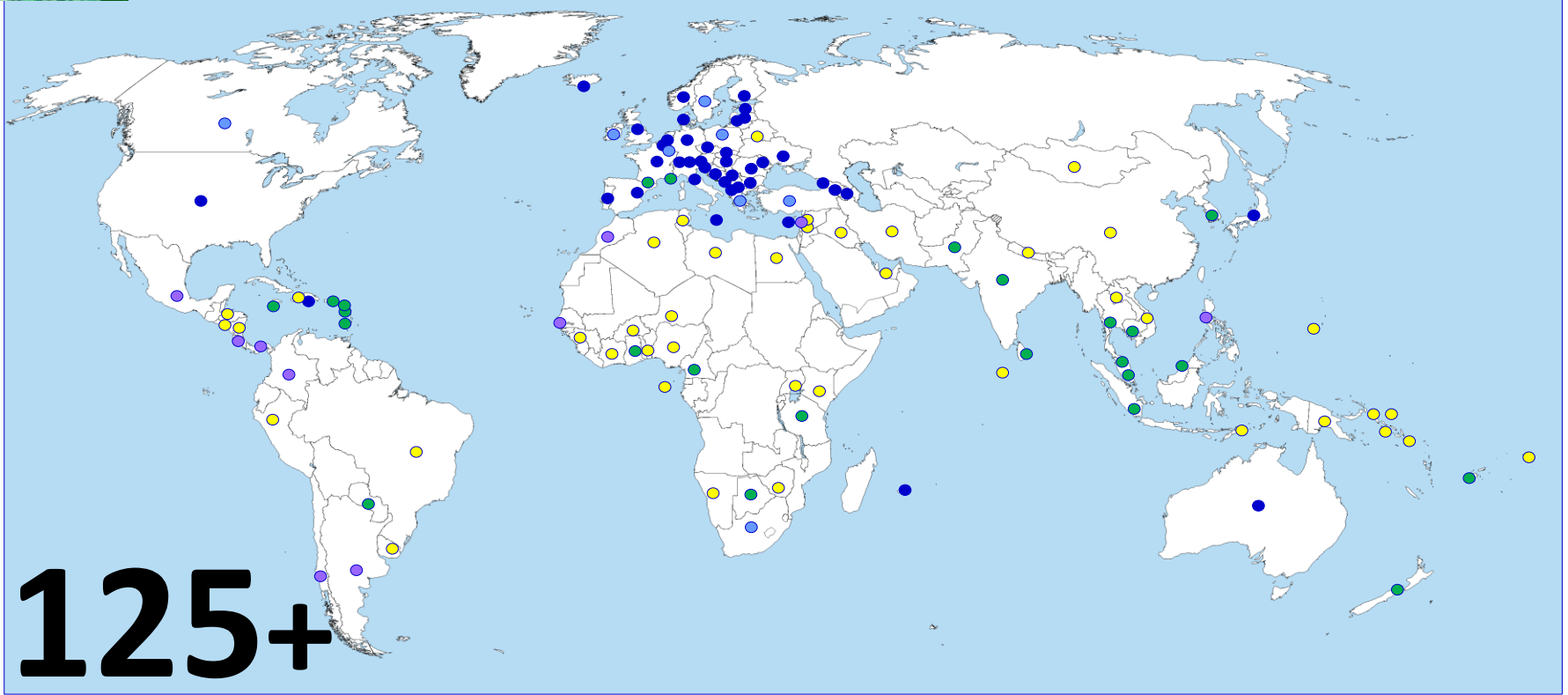
Signed:

- **Canada**
- **South AFRICA**
- **European countries**

Invited to accede:

- **Argentina**
- **Chile**
- **Colombia**
- **Costa Rica**
- **Israel**
- **Mexico**
- **Morocco**
- **Philippines**
- **Senegal**



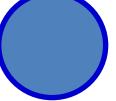
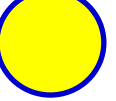
Reach of Budapest Convention



125+

Indicative map only

Ratified/acceded: 42
Signed: 11
(incl. 5 EU m/s)
Invited to accede: 9
= 62

-  **Other States with laws/draft laws largely in line with Budapest Convention = 20** 
-  **Further States drawing on Budapest Convention for legislation = 43+** 

COE approach on cybercrime

1 Common standards: Budapest Convention on Cybercrime and relates standards

2 Follow up and assessments:
Cybercrime
Convention
Committee (T-CY)



3 Capacity building:
C-PROC ►
Technical cooperation
programmes

Established under Article 46 Budapest Convention

Membership

(status March 2014):

- 42 Members (State Parties)
- 20 Observer States
- 10 International organisations (African Union Commission, ENISA, European Union, Europol, INTERPOL, ITU, OAS, OECD, OSCE, UNODC)

Functions:

- Assessments of the implementation of the Convention by the Parties
- Guidance Notes
- Draft legal instruments
- Etc.

2nd round of T-CY Assessments:

Efficiency of international cooperation provisions:

- **Article 31 on mutual assistance regarding accessing of stored computer data.**
- **And related Articles 23, 25, 26, 27, 28 and 35.**

Aim:

- **Better use of existing provisions**
- **Additional solutions**

Procedure and status:

- **Questionnaire February 2013.**
- **Plenary discussions June 2013 and December 2013.**
- **Revised report to be circulated for comments, consideration and adoption in [June] 2014.**

International requests for data

Types of data requested:

- 1. Subscriber information (80+%?)**
- 2. Traffic data**
- 3. Content data**

Underlying offences

- 1. Fraud and other financial crimes**
- 2. Violent and serious crime (murder, assault, trafficking, child abuse etc.)**
- 3. Offences against computer systems**

Preliminary findings/issues

- **Good level of cooperation between Parties**
- **MLA process considered inefficient**
- **Insufficient use made of existing opportunities**
- **Limited cooperation in minor cases**
- **Possibility of direct cooperation underused**
- **Stronger (supportive) role of 24/7 contact points in MLA process**
- **Cooperation with service providers**
- **Etc.**

26 draft recommendations to be discussed by T-CY in June 2014