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Strasbourg, 17 March 2009

T-CY (2009) 05

**MULTILATERAL CONSULTATION AMONG THE CONTRACTING STATES TO THE
CONVENTION ON CYBERCRIME**

(The Cybercrime Convention Committee T-CY)

**Fourth meeting
Strasbourg, 12 – 13 March 2009**

ABRIDGED MEETING REPORT

The Committee, meeting on 12 and 13 March 2009 with Ms Betty SHAVE (United States of America), in the Chair, decided to:

Election of the Chair and Vice-Chair by representatives of Parties to the Convention

- elect Ms Betty SHAVE as Chair and Mr Markko KÜNNAPU as Vice-Chair.

Working methods of the Committee

- set up a Bureau consisting of the Chair, the Vice-Chair and three Members of the Committee;
- elect Mr Erik J.H. PLANKEN, Ms Nora KAISER and Mr Fabien LANG as Members of the Bureau.

Review of certain provisions of the Convention on Cybercrime (CETS No. : 185) and its Protocol (CETS No. : 189)

As regards the questions of jurisdiction:

- instruct the Secretariat to prepare, in consultation with the Chair and interested delegations, a draft questionnaire on the need for direct transborder access to data and data flows where other measures are not adequate or fail;
- instruct the Secretariat to consult Parties and Signatories to the Convention, States invited to accede to the Convention as well as the CDPC on the draft questionnaire with a view to finalising it through written procedure;
- instruct the Secretariat to disseminate the finalised questionnaire to Parties and signatories to the Convention and States invited to accede to it with a view to presenting the replies obtained to T-CY and CDPC.

As regards the functioning of the 24/7 network:

- take note of the discussion paper "The functioning of 24/7 points of contact for cybercrime" prepared by the Project on Cybercrime;
- encourage further co-operation with the G8 High-Tech Crime Subgroup with a view to further strengthening the effective functioning of the network;
- make an official request to G8 High-Tech Crime Subgroup concerning the possibility to publish the official names of the competent authorities without revealing their full contact details;
- instruct the Secretariat to consult the Parties and the CDPC on publication of the discussion paper "The functioning of 24/7 points of contact for cybercrime" prepared by the Project on Cybercrime within a delay of three months;

- refer to the Bureau the questions of the attendance of the T-CY and the G8 High-Tech Crime Sub-group at each others meetings and of the management of collaboration on the 24/7 Network.

Mutual legal assistance in computer related cases in the light of information provided by the CDPC and the PC-OC

- continue its discussions on ways and means to facilitate mutual legal assistance under the Convention.

Consideration of possible supplementation or strengthening of the Convention

- adopt comments to the Parliamentary Assembly Recommendation 1855 (2009) “The regulation of audiovisual media services”. (**Appendix I**).

Other work carried out in the Council of Europe concerning specific matters relating to cybercrime

- adopt an opinion as regards the relationship between the Convention on Cybercrime and the draft Convention on counterfeiting of medical products and similar crimes involving threats to public health, on the basis of the discussions held by the T-CY. (**Appendix II**).

Work carried out by other fora

- strengthen its co-operation with the OECD, including by inviting the OECD to participate in its next meeting as an observer.

Next meeting of the Cybercrime Convention Committee (T-CY)

- fix a date in 2010 in consultation with the Bureau;
- invite also representatives of the States invited to accede to the Convention to participate as observers at the next meeting of the T-CY;

APPENDIX I

DRAFT COMMENTS AND OPINIONS

Comments on Parliamentary Assembly Recommendation 1855 (2009) « The regulation of audiovisual media services »

The Committee has carefully considered point 12.4. of the Parliamentary Assembly's recommendation. It notes that the Assembly has not indicated which kind of illegal content should be the subject of further additional protocols to the Convention on Cybercrime.

The committee recalls that the Convention already includes the content-related offence of unlawful production or distribution of child pornography (article 9) and provides for the criminalisation of offences related to infringements of copyright and related rights (article 10). The 2003 additional protocol extended the Convention's scope, including its substantive, procedural and international cooperation provisions, to cover also offences of racist and xenophobic propaganda.

Furthermore, in 2007 the CDPC reviewed the provisions of the Convention, welcomed the fact that the convention had gained widespread international support and agreed that it was premature to amend its provisions (CDPC, 56th plenary meeting, June 2007, item 10 of the agenda).

The Committee is therefore of the view that there is currently no need for an additional protocol on illegal content, the latter being already covered by other existing international legal instruments.

APPENDIX II

Opinion of the T-CY on the relationship between the Convention on Cybercrime and the draft Convention on counterfeiting of medical products and similar crimes involving threats to public health:

At the request of the Bureau of the CDPC, the Committee has examined the relevant provisions of the Convention on Cybercrime and the draft Convention on counterfeiting of medical products and similar crimes involving threats to public health with a view to assessing the relationship between the two instruments.

The Committee is of the opinion that the provisions of the Convention on Cybercrime, including on procedural law and mutual legal assistance, could be considered as applicable to the criminal acts of promotion and supplying of counterfeit medical products through the Internet.

APPENDIX III

DRAFT AGENDA

1. Opening of the meeting
2. Election of the Chair and Vice-Chair by representatives of Parties to the Convention
3. Adoption of the agenda
4. State of signatures, ratifications and accessions to the Convention and its additional Protocol (including progress made and likely future timetable)
5. Review of certain provisions of the Convention on Cybercrime (CETS No. : 185) and its Protocol (CETS No. : 189)
 - a. Expedited preservation of stored computer data and traffic data, including partial disclosure of the latter (articles 16 and 17)
 - b. Questions of jurisdiction (article 22)
 - c. Functioning of the « 24/7 Network » under article 35
6. Mutual legal assistance in computer related cases in the light of information provided by the CDPC and the PC-OC
7. Implementation of the Convention

Country Profiles established by Project on Cybercrime
8. Information concerning the Project on Cybercrime
 - a. Activities to date and workplan 2009/2010
 - b. Octopus Interface Conference « Co-operation Against Cybercrime », 10 -11 March 2009
 - c. Results of workshop II of Octopus Interface Conference concerning child pornography
9. Consideration of possible supplementation or strengthening of the Convention
 - a. Parliamentary Assembly Recommendation 1855 (2009) « The regulation of audiovisual media services » [Rec. 1855 \(2009\)](#) /
 - b. General discussion
10. Other work carried out in the Council of Europe concerning specific matters relating to cybercrime
 - a. Group of Specialists on counterfeit pharmaceutical products (PC-S-CP)
 - b. Committee of Experts on Terrorism (Codexter)
11. Work carried out by other fora

- a. Third Internet Governance Forum (IGF) meeting in Hyderabad, December 2008 and preparations for the Fourth meeting in Sharm El Sheikh, November 2009
- b. European Union (EU) – proposal for a framework decision
- c. Others

12. Available training (by international bodies or states)

13. Working methods of the Committee

- a. Setting up of a bureau
- b. Interactive website

14. Any other business

15. Next meeting of the Cybercrime Convention Committee (T-CY)

16. Adoption of the abridged meeting report

APPENDIX IV

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