GLOBAL PARTNERS DIGITAL

Current processes in global and regional cybersecurity and cybercrime

September 2023

Agenda

- Ad Hoc Committee on Cybercrime
- Open-Ended Working Group on ICTs

Ad Hoc Committee on Cybercrime

Part 1 – Context

Part 2 – Deep dive (key issues)

Part 3 – Discussion (Q&A; what's next)

Ad Hoc Committee on Cybercrime - Timeline

- **December 2019:** UN General Assembly adopts Resolution 74/247, establishing the AHC with the purpose of elaborating *"a comprehensive international convention on countering the use of information and communications technologies for criminal purposes"*
- **May 2021:** AHC convenes its organizational session, where it establishes the modalities and outline for its work (adopted via UN General Assembly Resolution 75/282)
- **February 2022:** The AHC holds its first organizational, negotiation session
- (...) **August-September 2023:** The AHC holds its sixth and "final" negotiation session
- **January-February 2024:** The AHC holds its "concluding" session
- **By August 2024:** The AHC reports back to the General Assembly during its 78th session.

Ad Hoc Committee on Cybercrime

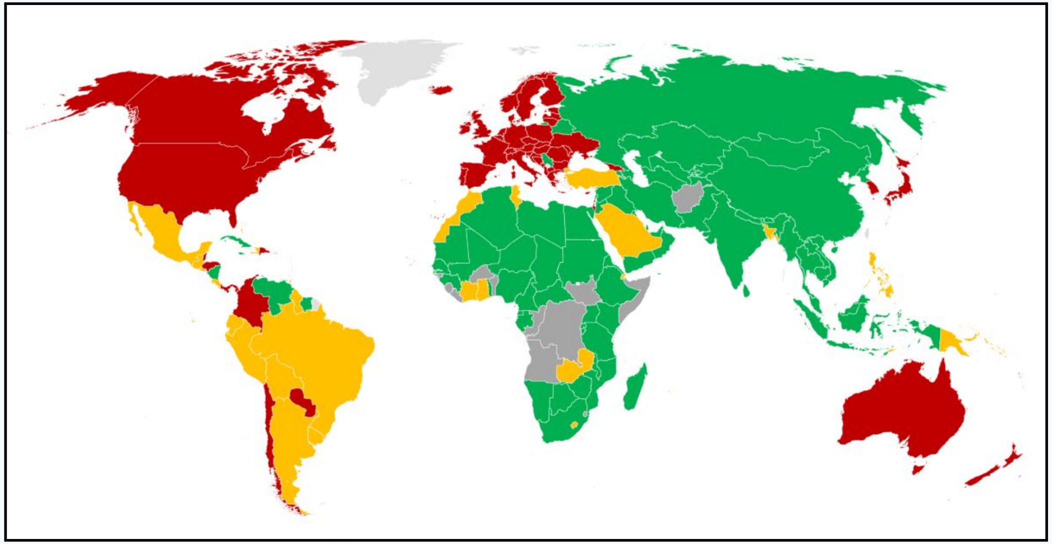

Figure 1: Voting on Resolution 74/247 (green = vote in favour; red = vote against; yellow = abstention; grey = did not vote)

Regional priorities: Africa region

- Strengthen international cooperation and facilitate mutual legal assistance as well as other forms of 'international cooperation'
- Build capacity to fight cybercrime (via technical assistance)
- Definitions - South Africa is charing an informal group tasked with consolidating a consensus position on terms in the convention

Sticking points

- Scope of offences
- Definitions
- Scope of powers (procedural and international cooperation)
- Human rights conditions and safeguards

Ad Hoc Committee on Cybercrime - key issues from a human rights perspective

1. Scope of offences (crimes) not limited to core cyber-dependent crimes
2. Inadequate defences for security researchers (and others)
3. Risk of arbitrary and disproportionate use of intrusive powers
4. Lack of robust human rights conditions and safeguards

Next steps

- States have until 15 September to share with Chair views/proposals
- Informals on contentious topics to continue until mid October
- A revised zero-draft will be issued by the Chair (c. November)
- Concluding session, New York, 29 January - 9 February 2024

Group discussion

- What are the risks and opportunities presented by the current UN process and negotiations?
- Do you have any reactions or questions with regards to the human rights concerns flagged by states and NGOs?
- What are current priorities in the region with regards to cybercrime legislation now that the Malabo convention has entered into force?
- Any areas of concern re: harmonisation/conflict considering the Malabo convention? What are the opportunities to inform the UN convention considering the Malabo convention's standards?

Open Ended Working Group

Part 1 – Context

Part 2 – Current status of discussions and deep dive (key issues)

Part 3 – Discussion (Q&A; what’s next)

The UN GGE and OEWG

- 1998: UNGA first passes a resolution on “Developments in the field of information and telecommunications (ICTs) in the context of international security”
- 2003-2017: Six GGEs in 2004/2005 (A/RES/58/32), 2009/2010 (A/RES/60/45), 2012/2013 (A/RES/66/24), 2014/2015 (A/RES/68/243), 2016/2017 (A/RES/70/237 evolve the “responsible state behaviour framework”
- 2018: UNGA passed resolutions as part of its 73rd Session, setting up two parallel processes: a new Group of Governmental Experts (GGE) *and* an Open-ended Working Group (OEWG).
- 2021: Both the OEWG and the GGE adopted consensus reports, reaffirming the responsible state behaviour framework
- 2021: A new OEWG set up for the period (2021-2025)

The responsible state behaviour framework

- 1) norms, rules and principles
- 2) confidence-building measures
- 3) capacity-building
- 4) the application of international law in cyberspace.

The OEWG (II)

So far: five substantive sessions and 2 intersessionals held and 2 consensus annual reports adopted

To come: Six more substantive sessions, 2 more intersessionals. Two more consensus reports??

Sticking points

- Applicability of international law, specifically international humanitarian law and international human rights law in cyberspace
- Need for a UN treaty on state behaviour in cyberspace / ‘insufficiency’ of the current framework
- Future of dialogue: implementation of framework through a Programme of Action?
- Roles and responsibilities of stakeholders
- Accountability mechanisms

Africa region priorities/positions

- Capacity building, particularly South-south cooperation
- International law: common/joint position from AU upcoming?

Group discussion

- What existing initiatives exist on the continent relating to the implementation of the responsible state behaviour framework?
- What are your views on the opportunities presented by the Programme of Action proposal?
- What are the main challenges being faced by member states and stakeholders in the region in relation to engaging with the OEWG?
- Is there a bigger role for sub-regional groups and the AU to play? If so, what?

Further reading

AHC

- GITOC policy brief analysing state groupings and positions
- EFF series (Part 1)
- Derechos Digitales and APC mapping of the abuse of cybercrime legislation
- GPD's analysis of the zero draft
- GPD's commentary of the AHC fourth session; GPD's commentary of the AHC fifth session
- Civil society joint letter on the cybercrime treaty
- UN Cybercrime negotiations: no outcome may be the best outcome (blog)

OEWG

- Discord and diplomacy: reviewing outcomes from the UN's cyber working group
- GPD analysis of fifth substantive session of OEWG II
- Joint civil society input on the OEWG II second annual progress report zero draft
- AfriSIG 2022 outcome document