



NEW ZEALAND
FOREIGN AFFAIRS & TRADE
Manatū Aorere



**DEPARTMENT OF THE
PRIME MINISTER AND CABINET**
TE TARI O TE PIRIMIA ME TE KOMITI MATUA



The new United Nations convention on cybercrime

A new UN convention on cybercrime will soon be negotiated and we want to hear your views. The Ministry of Foreign Affairs and Trade, the Department of the Prime Minister and Cabinet and the Ministry of Justice are seeking public feedback on some draft objectives and principles for those negotiations.

On 27 December 2019, the United Nations General Assembly adopted Resolution 74/247 establishing an Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes.

This Resolution launched negotiations of a new international convention on cybercrime. The convention will further enable international cooperation in the ongoing and increasingly complex fight against cybercrime. Beyond that, the shape and potential scope of the convention are unclear at this stage.

Negotiations will start on 17 January 2022 and are scheduled to conclude in 2024.

New Zealand is committed to engaging constructively in the process.

International cooperation on cybercrime has never been more significant. Cybercriminals are organised and operate globally. As work, research, commerce and social interactions have shifted increasingly online, including over the course of the COVID-19 pandemic, the areas of opportunity for cybercriminals have broadened. We have seen cybercrime incidents increase in both frequency and severity.

Binding international treaties like the Council of Europe Convention on Cybercrime (the Budapest Convention) have laid the foundation for countries to align their laws and foster information sharing on current threats and best practice. As part of the negotiating process, there may be opportunities for New Zealand to contribute to improvements global responses to combatting crime online and cooperation to collect and share evidence of criminal offending. New Zealand's participation will also help us to learn more how to align our own laws and frameworks to respond to cybercrimes. This can help us tackle the challenge of cybercrime affecting New Zealanders.

Why we are negotiating

Investigating and prosecuting cybercrimes, as well as many other types of crime, can often require access held online. There are increasing difficulties to achieving access to such information and this complicates law enforcement processes.

New Zealand is a champion of the rules-based international order - we gain security and prosperity from the stability and safeguards of a rules-based international system. In an increasingly uncertain global environment, we need to ensure existing international rules are

respected and that new rules and norms reflect our values and interests. This means New Zealand needs to participate in international discussions to protect and advance our interests.

We have strong interests in the negotiations. New Zealand government agencies rely on both domestic and international cooperation to prevent, mitigate, investigate and prosecute crimes committed online. This is simpler when all countries, including New Zealand, have consistent laws regarding how crimes committed online are defined, and how agencies can access and use recorded evidence of crime in overseas jurisdictions.

Engaging in the UN negotiations aligns with our domestic Plan to Address Cybercrime 2015, as well as the objectives and priorities outlined in the Cyber Security Strategy 2019. Participation will assist New Zealand in its strategic vision of being “confident and secure in the digital world: Enabling New Zealand to thrive online.”

It is important to note that participation in the negotiations does not guarantee that New Zealand will accede to any convention agreed through this process. Normal treaty accession rules apply, which includes a separate domestic process for New Zealand to consider accession, after the negotiation process concludes. If the final text of the convention does not reflect New Zealand’s interests, we can choose not to accede.

Why we are consulting the public

Cybercrime will continue to present a growing threat to New Zealand and New Zealanders. It has the potential to severely impact our safety, our economy, our security, and our wellbeing. We need to be involved in the negotiations and we want to ensure that New Zealand’s participation is guided by the interests and objectives of the New Zealand public.

New Zealand supports a free, open and secure internet with a multi-stakeholder approach to internet governance. This ensures that internet policy is developed through a bottom-up process, informed by a broad group of interested parties, including government, private sector, civil society and technical experts. It is therefore imperative for us to engage with domestic stakeholders.

We will work to uphold our obligations as a responsible treaty partner, and to consider te ao Māori and Te Tiriti o Waitangi throughout the consultation and negotiation process.

Your input

At this stage, we do not know what issues are going to be proposed for consideration, or how this would compare to the existing treaty on cybercrime that New Zealand is in the process of joining (the Budapest Convention).

We are therefore inviting interested parties to provide feedback on the proposed high-level **principles and objectives** which will guide our overall approach.

The basis of these are the vision and values set out in our existing Cyber Security Strategy: that New Zealanders are secure online, that human rights are protected for all, that opportunities for economic growth are enhanced, and that our national security is protected.

This is underpinned by our broader vision for cyberspace:

- a cyberspace that is safe, secure, stable, multi-stakeholder-governed, free, open and interoperable;

- a well-functioning rules-based order in cyberspace that protects and promotes human rights including the right to freedom of expression and the right not to be subjected to arbitrary and unlawful interference with privacy; and
- respect for the rule of law online and offline.

The draft principles and objectives are attached, and we welcome your thoughts on them.

How to make a submission

Should you wish to make a submission, you can do so through our [online portal](#).

Please note that any submission you make becomes official information. People can ask for copies of submissions under the Official Information Act 1982 (OIA). The OIA says information shall be made available unless there is a good reason for withholding it. Reasons to withhold official information are given in sections 6 and 9 of the OIA. If you think there is a reason why anything in your submission should not be made public, please let us know on your submission form. Reasons for this might include that it is commercially sensitive. Any decision to withhold information can be reviewed by the Ombudsman, who may find that a decision to withhold official information is wrong.

What happens next

Input will be collected and analysed and will influence the negotiating mandate that officials must obtain to participate in the first session, commencing on 17 January 2022.

There will be further opportunities to participate once it becomes clearer what is being discussed and what issues might be covered in the treaty. We will come back to you as those negotiations progress, so you can be part of the discussion about how New Zealand approaches the negotiations.

Please feel free to let us know through the online portal what level of interest you have in being engaged as the discussion at the UN develops. We also welcome any indication as to how you would like to be engaged throughout this process.