

**OAS Meetings of the Ministers of Justice or Attorneys General of the Americas
8th Meeting of the Working Group on Cybercrime, 27-28 Feb 2014, Washington DC
Agenda item “International legal frameworks”**

Implementation of the Budapest Convention on Cybercrime

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COE approach on cybercrime

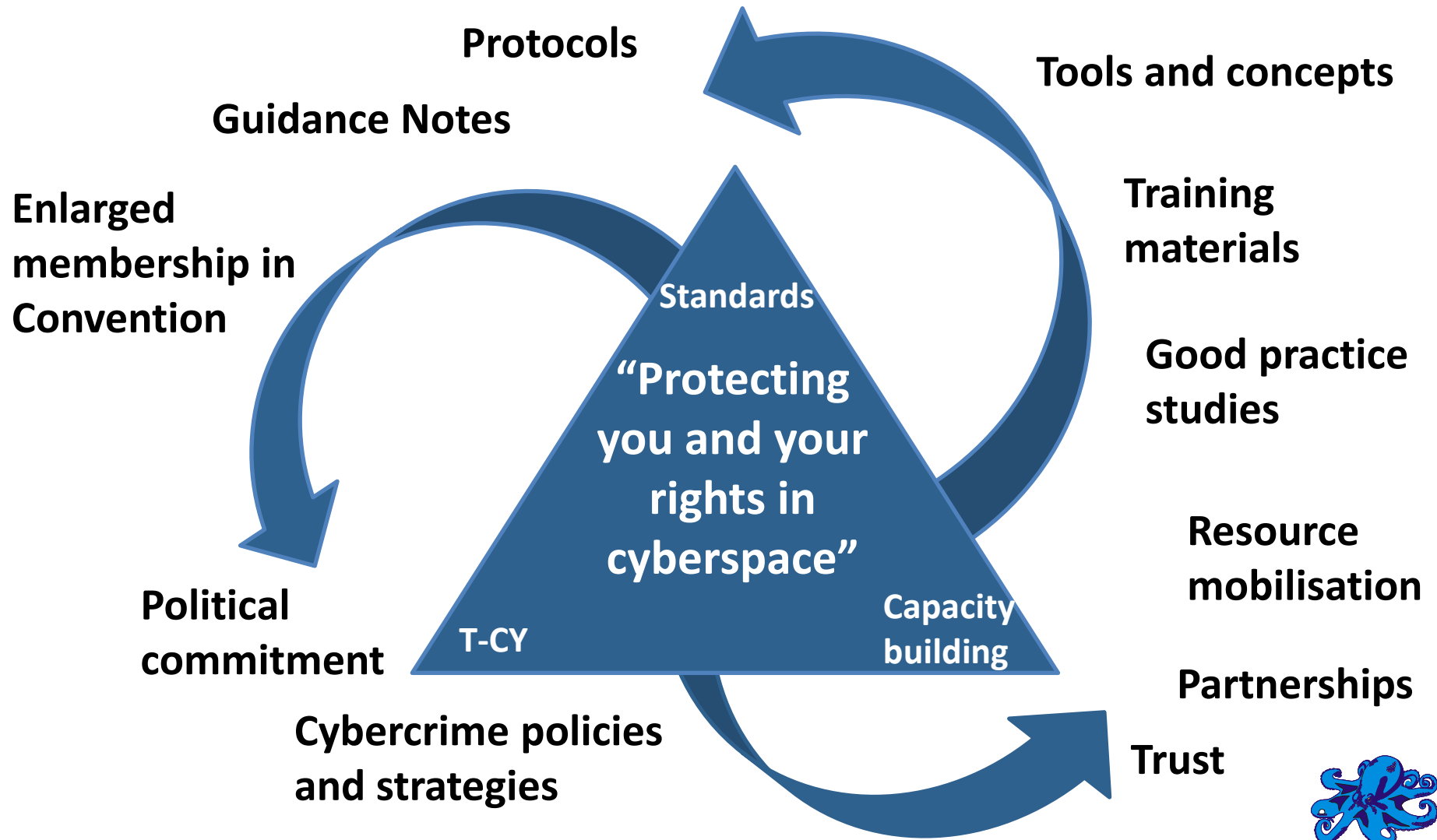
1 Common standards: Budapest Convention on Cybercrime and relates standards

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



3 Capacity building:
C-PROC ►
Technical cooperation
programmes

A dynamic framework



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

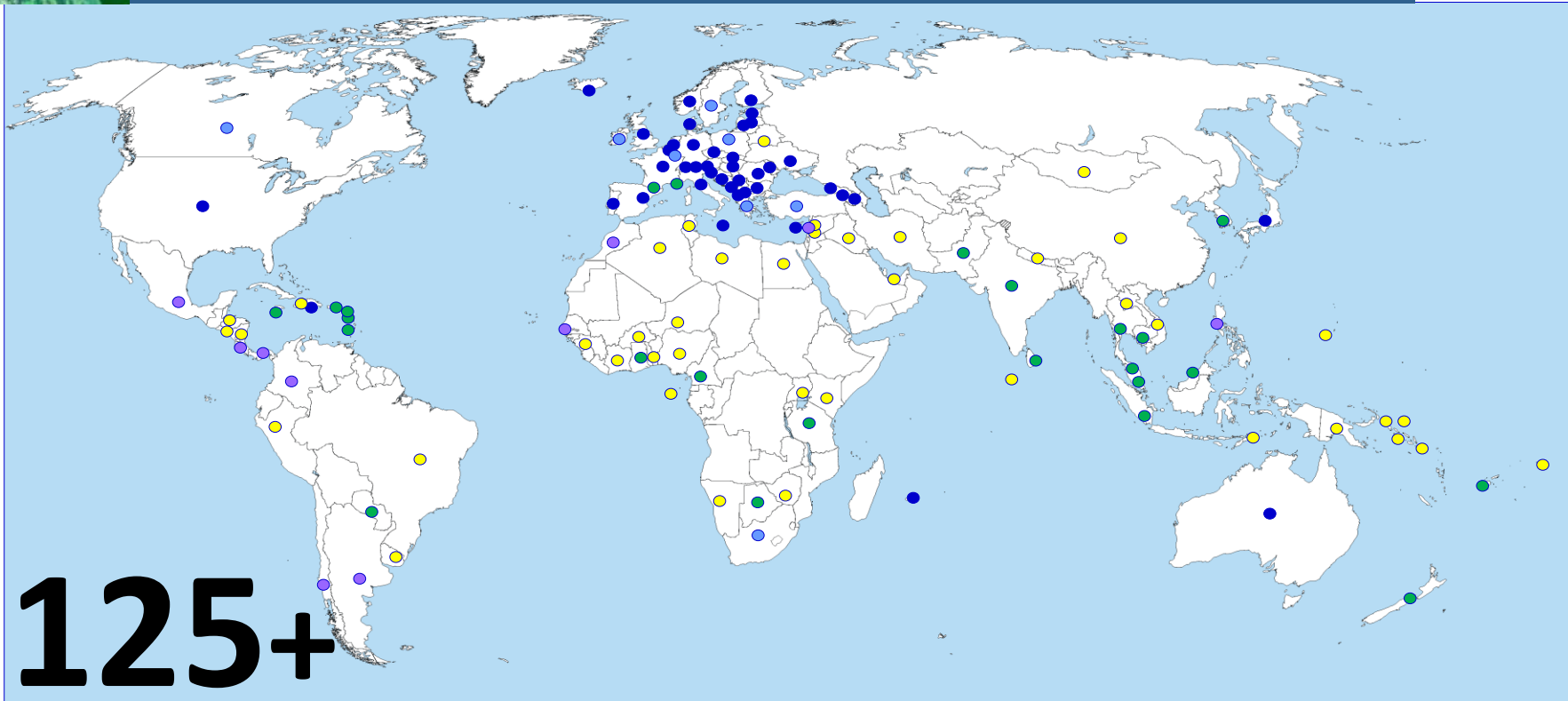
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International cooperation

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

Harmonisation

Reach of Budapest Convention



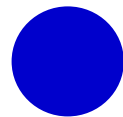
Indicative map only

Ratified/acceded: 41

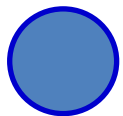
Signed: 11

(incl. 5 EU m/s)

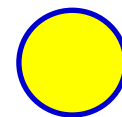
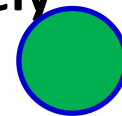
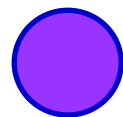
**Invited to accede: 10
= 62**



**Other States with laws/draft laws largely
in line with Budapest Convention = 20**



**Further States drawing on Budapest
Convention for legislation = 43+**



OAS m/s and the Budapest Convention

Parties:

- **Dominican Republic**
- **USA**

Signed:

- **Canada**

Invited to accede:

- **Argentina**
- **Chile**
- **Colombia**
- **Costa Rica**
- **Mexico**
- **Panama**

Established under Article 46 Budapest Convention

Membership

(status January 2014):

- **41 Members (State Parties)**
- **21 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.**

Guidance Notes adopted:

- ✓ **Notion of “Computer Systems”**
- ✓ **Botnets**
- ✓ **Identity theft**
- ✓ **DDOS attacks**
- ✓ **Critical Infrastructure Attacks**
- ✓ **Malware**

Guidance Notes under negotiation:

- **IP address/Subscriber information**
- **Article 32 b (Transborder access)**

T-CY work on transborder access

- Analysis of question of transborder access to data and jurisdiction, including Article 32 since 2009
- T-CY subgroup on Transborder Access established in November 2011 and its report adopted by T-CY in December 2012:
 1. Work on a Guidance Note on the existing Article 32b
 2. Work on an Additional Protocol to the Budapest Convention
- Dialogue with civil society, data protection and industry in 2013.
- T-CY decision December 2013 ► Before commencing negotiation of a Protocol:
 1. Continue dialogue with stakeholders [Conference, June 2014]
 2. Take into account results of T-CY assessment of MLA provisions
 3. Submit proposals regarding a Protocol to 12th Plenary of T-CY (Dec 2014)

1st round of Assessments (2012):

**Implementation of the expedited
preservation provisions of the
Budapest Convention:**

- **Article 16 (domestic)**
- **Article 17 (domestic)**
- **Article 29 (international)**
- **Article 30 (international)**

**Coordinated with EU DG Home work
on data retention.**

Report adopted in December 2012.

Findings:

- **Much use of general powers
to secure data.**
- **Preservation powers
underused.**
- **Consider specific
preservation powers in
procedural law.**
- **Data preservation and data
retention are complementary
tools, but serve different
purposes; are not substitutes
for each other.**

2nd round of T-CY Assessments:

- **Article 31 on mutual assistance regarding accessing of stored computer data.**
- **And related Articles 23, 25, 26, 27, 28 and 35.**
- **Issues:**
 - **Frequency of requests and types of data**
 - **Procedures and requirements**
 - **Channels and means of cooperation**
 - **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.**

CAPACITY BUILDING ON CYBERCRIME

Council of Europe projects in 2014

GLACY EU/COE Joint Project on Global Action on Cybercrime



Cybercrime@EAP EU/COE Eastern Partnership (extension)



Cybercrime@Octopus (voluntary contribution funded)



To be managed by:

C-PROC Cybercrime Programme Office of the Council of Europe
(Bucharest, Romania)

CAPACITY BUILDING ON CYBERCRIME

Council of Europe projects in 2014

Cybercrime@Octopus workshop on cybercrime legislation

Mexico City, 1-2 April 2014

**For countries invited to accede or
considering accession to Budapest
Convention**