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**Ad Hoc Committee to Elaborate a  
Comprehensive International Convention  
on Countering the Use of Information and  
Communications Technologies for  
Criminal Purposes**  
Concluding session  
New York, 29 January–9 February 2024

## **Further revised draft text of the convention**

### **Note by the Chair**

1. In the course of the concluding session of the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes, the Committee Chair further revised, with the support of the Secretariat, the draft text of the convention submitted to the Committee ahead of its concluding session ([A/AC.291/22/Rev.1](#)), on the basis of the discussions held during the first week of that session (see annex). This was done pursuant to the methodology for conducting the work of the Ad Hoc Committee at its concluding session, approved by the Committee at the first meeting of that session.
2. The further revised draft text of the convention is presented as a coherent document that seeks to incorporate those elements discussed during the fourth, fifth, sixth and concluding sessions which appear to be acceptable to the maximum number of delegations, without prejudice to the right of all delegations to submit proposals, as they deem appropriate, at any time during the negotiation process.
3. The further revised draft text seeks to consolidate modifications that enjoyed broad support, with a view to assisting the Committee in achieving consensus on a draft convention at its concluding session.



## Annex

### Further revised draft text of the convention

## United Nations Convention against Cybercrime

### Preamble

*The States Parties to the present Convention,*

*Bearing in mind* the purposes and principles of the Charter of the United Nations,

*Noting* that information and communications technologies, while having enormous potential for the development of societies, create new opportunities for perpetrators, may contribute to the increase in the rate and diversity of criminal activities, and may have an adverse impact on States, enterprises and the well-being of individuals and society as a whole,

*Concerned* that the use of information and communications technology systems can have a considerable impact on the scale, speed and scope of criminal offences, including offences related to terrorism and transnational organized crime, such as trafficking in persons, smuggling of migrants, illicit manufacturing of and trafficking in firearms, their parts, components and ammunition, drug trafficking and trafficking in cultural property,

*Convinced* of the need to pursue, as a matter of priority, a global criminal justice policy aimed at the protection of society against cybercrime by, inter alia, adopting appropriate legislation, establishing common offences and procedural powers and fostering international cooperation to prevent and combat such activities more effectively at the national, regional and international levels,

*Determined* to deny safe havens to those who engage in cybercrime by prosecuting these crimes wherever they occur,

*Stressing* the need to enhance coordination and cooperation among States by, inter alia, providing technical assistance and capacity-building, including the transfer of technology on mutually agreed terms, to countries, in particular developing countries, upon their request, to improve national legislation and frameworks and enhance the capacity of national authorities to deal with cybercrime in all its forms, including its prevention, detection, investigation and prosecution, and emphasizing in this context the role that the United Nations plays,

*Recognizing* the increasing number of victims of cybercrime, the importance of obtaining justice for those victims and the necessity to address the needs of persons in vulnerable situations in measures taken to prevent and combat the offences covered by this Convention,

*Determined* to prevent, detect and suppress more effectively international transfers of property obtained as a result of cybercrime and to strengthen international cooperation in the recovery and return of proceeds of crime,

*Bearing in mind* that preventing and combating cybercrime is a responsibility of all States and that they must cooperate with one another, with the support and involvement of relevant international and regional organizations, as well as non-governmental organizations, civil society organizations, academic institutions and the private sector, if their efforts in this area are to be effective,

*Affirming* the importance of mainstreaming a gender perspective in all efforts to prevent and combat the offences covered by this Convention, in accordance with domestic law,

*Mindful* of the need to achieve law enforcement objectives and to ensure respect for human rights and fundamental freedoms as enshrined in applicable international and regional instruments,

*Acknowledging* the right to protection against arbitrary or unlawful interference with one's privacy, and the importance of protecting personal data,

*Commending* the work of the United Nations Office on Drugs and Crime and other international and regional organizations in preventing and combating cybercrime,

*Taking into account* the existing international and regional conventions and treaties on cooperation in criminal matters, as well as similar treaties that exist between States Members of the United Nations,

*Have agreed* as follows:

## **Chapter I**

### **General provisions**

#### *Article 1. Statement of purpose*

The purposes of this Convention are to:

- (a) Promote and strengthen measures to prevent and combat cybercrime more efficiently and effectively; [*agreed ad referendum*]
- (b) Promote, facilitate and strengthen international cooperation in preventing and combating cybercrime; and [*agreed ad referendum*]
- (c) Promote, facilitate and support technical assistance and capacity-building to prevent and combat cybercrime, in particular for the benefit of developing countries.

#### *Article 2. Use of terms*

1. For the purposes of this Convention:
  - (a) "Information and communications technology system" shall mean any device or group of interconnected or related devices, one or more of which, pursuant to a program, gathers, stores and performs automatic processing of electronic data;
  - (b) "Electronic data" shall mean any representation of facts, information or concepts in a form suitable for processing in an information and communications technology system, including a program suitable to cause an information and communications technology system to perform a function;
  - (c) "Traffic data" shall mean any electronic data relating to a communication by means of an information and communications technology system, generated by an information and communications technology system that formed a part in the chain of communication, indicating the communication's origin, destination, route, time, date, size, duration or type of underlying service;
  - (d) "Content data" shall mean any electronic data, other than subscriber information or traffic data, relating to the substance of the data transferred by an information and communications technology system, including, but not limited to, images, text messages, voice messages, audio recordings and video recordings; [*agreed ad referendum*]
  - (e) "Service provider" shall mean:
    - (i) Any public or private entity that provides to users of its service the ability to communicate by means of an information and communications technology system; and

- (ii) Any other entity that processes or stores electronic data on behalf of such a communications service or users of such a service;
- (f) “Subscriber information” shall mean any information that is held by a service provider, relating to subscribers of its services other than traffic or content data and by which can be established:
- (i) The type of communications service used, the technical provisions taken thereto and the period of service;
- (ii) The subscriber’s identity, postal or geographical address, telephone and other access number, billing and payment information, available on the basis of the service agreement or arrangement;
- (iii) Any other information on the site of the installation of communications equipment, available on the basis of the service agreement or arrangement;
- (g) “Personal data” shall mean any information relating to an identified or identifiable natural person;
- (h) “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;
- (i) “Child” shall mean every human being below the age of 18 years, unless under the law applicable to the child, majority is attained earlier;
- (j) “Property” shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, including virtual assets, and legal documents or instruments evidencing title to, or interest in, such assets;
- (k) “Proceeds of crime” shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence; [*agreed in informals*]
- (l) “Freezing” or “seizure” shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority; [*agreed in informals*]
- (m) “Confiscation”, which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority; [*agreed in informals*]
- (n) “Predicate offence” shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in article 16 of this Convention; [*agreed in informals*]
- (o) “Regional economic integration organization” shall mean an organization constituted by sovereign States of a given region to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it; references to “States Parties” under this Convention shall apply to such organizations within the limits of their competence;
- (p) “Emergency” shall mean a situation in which there is a significant and imminent risk to the life or safety of any natural person.

2. This article shall not be interpreted as imposing a requirement that States Parties apply in their domestic laws the exact same terminology as set out in paragraph 1 of this article, provided that the core elements defined in paragraph 1 are covered under domestic laws in a manner consistent with the purposes of this Convention and offer an equivalent framework for its implementation.

### *Article 3. Scope of application*

[...]

*Article 4. Protection of sovereignty**[agreed ad referendum]*

1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.
2. Nothing in this Convention shall entitle a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

*Article 5. Respect for human rights*

[...]

## **Chapter II Criminalization**

*Article 6. Illegal access*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence under its domestic law, when committed intentionally, the access to the whole or any part of an information and communications technology system without right. *[agreed ad referendum]*
2. A State Party may require that the offence be committed by infringing security measures, with the intent of obtaining electronic data or other dishonest or criminal intent or in relation to an information and communications technology system that is connected to another information and communications technology system.

*Article 7. Illegal interception*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the interception, made by technical means, of non-public transmissions of electronic data to, from or within an information and communications technology system, including electromagnetic emissions from an information and communications technology system carrying such electronic data. *[agreed ad referendum]*
2. A State Party may require that the offence be committed with dishonest or criminal intent, or in relation to an information and communications technology system that is connected to another information and communications technology system.

*Article 8. Interference with electronic data*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the damaging, deletion, deterioration, alteration or suppression of electronic data. *[agreed in informals]*
2. A State Party may require that the conduct described in paragraph 1 result in serious harm. *[agreed ad referendum]*

*Article 9. Interference with an information and communications technology system*  
*[agreed ad referendum]*

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the serious hindering of the functioning of an

information and communications technology system by inputting, transmitting, damaging, deleting, deteriorating, altering or suppressing electronic data.

*Article 10. Misuse of devices*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right: [*agreed ad referendum*]

(a) The obtaining, production, sale, procurement for use, import, distribution or otherwise making available of: [*agreed ad referendum*]

(i) A device, including a program designed or adapted primarily for the purpose of committing any of the offences established in accordance with articles 6 to 9 of this Convention; or [*agreed ad referendum*]

(ii) A password, access credentials, electronic signature or similar data by which the whole or any part of an information and communications technology system is capable of being accessed; [*agreed ad referendum*]

with the intent that the device, including a program, password, access credentials, electronic signature, or similar data be used for the purpose of committing any of the offences established in accordance with articles 6 to 9 of this Convention; and [*agreed ad referendum*]

(b) The possession of an item referred to in paragraph 1 (a) (i) or (ii) of this article, with intent that it be used for the purpose of committing any of the offences established in accordance with articles 6 to 9 of this Convention. [*agreed ad referendum*]

2. This article shall not be interpreted as imposing criminal liability where the obtaining, production, sale, procurement for use, import, distribution or otherwise making available, or the possession referred to in paragraph 1 of this article is not for the purpose of committing an offence established in accordance with articles 6 to 9 of this Convention, such as for the authorized testing or protection of an information and communications technology system. [*agreed ad referendum*]

3. Each State Party may reserve the right not to apply paragraph 1 of this article, provided that the reservation does not concern the sale, distribution or otherwise making available of the items referred to in paragraph 1 (a) (ii) of this article. [*agreed ad referendum*]

*Article 11. Information and communications technology system-related forgery*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the input, alteration, deletion or suppression of electronic data resulting in inauthentic data with the intent that they be considered or acted upon for legal purposes as if they were authentic, regardless of whether or not the data are directly readable and intelligible. [*agreed ad referendum*]

2. A State Party may require an intent to defraud, or a similar dishonest or criminal intent, before criminal liability attaches.

*Article 12. Information and communications technology system-related theft or fraud*

Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence under its domestic law, when committed intentionally and without right, the causing of a loss of property to another person by means of: [*agreed ad referendum*]

(a) Any input, alteration, deletion or suppression of electronic data; [*agreed in informals*]

(b) Any interference with the functioning of an information and communications technology system; [*agreed ad referendum*]

(c) Any deception as to factual circumstances made through an information and communications technology system that causes a person to do or omit to do anything which that person would not otherwise do or omit to do; [*agreed ad referendum*]

with the fraudulent, dishonest or criminal intent of procuring for oneself or for another person, without right, a gain in money or other property.

*Article 13. Offences related to  
online child sexual abuse or child sexual exploitation material*

[1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right or lawful authority, the following conduct:

(a) Producing, offering, selling, distributing, transmitting, broadcasting, displaying, publishing or otherwise making available child sexual abuse or child sexual exploitation material through an information and communications technology system;

(b) Soliciting, procuring or accessing child sexual abuse or child sexual exploitation material through an information and communications technology system;

(c) Possessing or controlling child sexual abuse or child sexual exploitation material stored in an information and communications technology system or another storage medium.

(d) States Parties may also establish the financing of the offences established in accordance with subparagraphs (a) to (c) of this paragraph as a separate offence.

2. For the purposes of this article, the term “child sexual abuse or child sexual exploitation material” shall include visual material and may include written or audio content that depicts, describes or represents a child:

(a) Engaging in real or simulated sexual activity;

(b) In the presence of a person engaging in any sexual activity;

(c) Whose sexual parts are displayed for primarily sexual purposes; or

(d) Subjected to torture or cruel, inhumane or degrading treatment or punishment and such material is sexual in nature.

3. A State Party may require that the material identified in paragraph 2 be limited to material that:

(a) Depicts, describes or represents a real child; or

(b) Visually depicts child sexual abuse or child sexual exploitation.

4. States Parties may take steps to exclude the criminalization of children for self-generated material depicting them as described in paragraph 2, subparagraphs (a) to (c) of this article.

5. Consistent with any domestic or international obligations, for children who have reached the legal age to engage in sexual activity under domestic law, States Parties may take steps to exclude from paragraph 2, subparagraphs (a) to (c), of this article material that is produced as part of a consensual sexual relationship where such material is maintained exclusively for the private use of the persons depicted.

[4-5 alt. As provided for in article 21, paragraph 7, of this Convention, in cases in which children are accused of the offences established in accordance with this Convention, States Parties shall take into consideration the best interests of the child, as well as measures that are more conducive to the realization of the rights of the child

and which may be provided for in the law of the State Party or international law in force for that State.]

6. Nothing in the present Convention shall affect any international obligations which are more conducive to the realization of the rights of the child.]

*Article 14. Solicitation or grooming for the purpose of committing a sexual offence against a child*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the act of intentionally communicating, soliciting, grooming, or making any arrangement through an information and communications technology system for the purpose of committing a sexual offence against a child, as defined in domestic law, including for the commission of any of the offences established in accordance with article 13. [agreed ad referendum]

2. A State Party may require an act in furtherance of the conduct described in paragraph 1. [agreed ad referendum]

3. A State Party may consider extending criminalization in accordance with paragraph 1 in relation to a person believed to be a child. [agreed ad referendum]

4. States Parties may take steps to exclude the criminalization of children for conduct described in paragraph 1. [agreed ad referendum]

*Article 15. Non-consensual dissemination of intimate images*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the selling, distributing, transmitting, publishing or otherwise making available of an intimate image of a person by means of an information and communications technology system, without the consent of the person depicted in the image.

2. For the purpose of paragraph 1, “intimate image” shall mean a visual recording of a person over the age of 18 years made by any means, including a photograph or video recording, that is sexual in nature, in which the person’s sexual parts are exposed or the person is engaged in sexual activity, which was private at the time of the recording, and in respect of which the person or persons depicted maintained a reasonable expectation of privacy at the time of the offence.

3. A State Party may extend the definition of intimate images, as appropriate, to depictions of persons who are under the age of 18 if they are of legal age to engage in sexual activity under domestic law and the image does not depict child abuse or exploitation.

4. For the purposes of this article, a person who is under the age of 18 and depicted in an intimate image cannot consent to the dissemination of an intimate image that constitutes child sexual abuse or child sexual exploitation material under article 13 of this Convention.

5. A State Party may require the intent to cause harm before criminal liability attaches.

6. A State Party may, where applicable under its domestic law, elect to not require the absence of consent of the person depicted in the image as a requisite for establishing as an offence the acts referred to in paragraph 1 of this article.

*Article 16. Laundering of proceeds of crime*

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:



- (a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of that person's actions;
- (ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;
- (b) Subject to the basic concepts of its legal system:
- (i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;
- (ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article. [*agreed ad referendum*]
2. For purposes of implementing or applying paragraph 1 of this article:
- (a) Each State Party shall include as predicate offences, relevant offences established in accordance with articles 6 to 15 of this Convention;
- (b) In the case of States Parties whose legislation sets out a list of specific predicate offences, they shall, at a minimum, include in that list a comprehensive range of offences established in accordance with articles 6 to 15 of this Convention;
- (c) A State Party may require a certain degree of seriousness in respect of the offences described in this paragraph.
- (d) For the purposes of subparagraph (b), predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article, had it been committed there; [*agreed ad referendum*]
- (e) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations; [*agreed ad referendum*]
- (f) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence; [*agreed ad referendum*]
- (g) Knowledge, intent or purpose required as an element of an offence set forth in paragraph 1 of this article may be inferred from objective factual circumstances. [*agreed ad referendum*]

*Article 17. Offences relating to other international treaties*

[...]

*Article 18. Liability of legal persons*

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention. [*agreed ad referendum*]
2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative. [*agreed ad referendum*]
3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences. [*agreed ad referendum*]

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions. [*agreed ad referendum*]

*Article 19. Participation and attempt*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, when committed intentionally, the participation in any capacity, such as that of an accomplice, assistant or instigator, in an offence established in accordance with this Convention. [*agreed ad referendum*]

2. Each State Party may adopt the necessary legislative and other measures to establish as a criminal offence, in accordance with its domestic law, when committed intentionally, any attempt to commit an offence established in accordance with this Convention. [*agreed ad referendum*]

3. Each State Party may adopt the necessary legislative and other measures to establish as a criminal offence, in accordance with its domestic law, when committed intentionally, the preparation for an offence established in accordance with this Convention. [*agreed ad referendum*]

*Article 20. Statute of limitations*

Each State Party shall, where appropriate, considering the gravity of the crime, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with this Convention and establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice. [*agreed ad referendum*]

*Article 21. Prosecution, adjudication and sanctions*

1. Each State Party shall make the commission of an offence established in accordance with this Convention liable to effective, proportionate and dissuasive sanctions that take into account the gravity of the offence. [*agreed ad referendum*]

2. Each State Party may adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to establish aggravating circumstances in relation to the offences established in accordance with this Convention, including circumstances that affect critical information infrastructures.

3. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences established in accordance with this Convention are exercised in order to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences. [*agreed ad referendum*]

4. Each State Party shall ensure that any person prosecuted for offences established in accordance with this Convention enjoys all rights and guarantees in conformity with domestic law and consistent with the international obligations of the State Party, including the right to a fair trial and the rights of the defence.

5. In the case of offences established in accordance with this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings. [*agreed ad referendum*]

6. Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences. [*agreed ad referendum*]

7. States Parties shall ensure that appropriate measures are in place under domestic law to protect children who are accused of offences established in accordance with this Convention, consistent with the obligations under the Convention on the Rights of the Child and the applicable Protocols thereto, as well as other applicable international or regional instruments. [*agreed ad referendum*]

8. Nothing contained in this Convention shall affect the principle that the description of the offences established in accordance with this Convention and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic law of a State Party and that such offences shall be prosecuted and punished in accordance with that law. [*agreed ad referendum*]

### **Chapter III Jurisdiction**

#### *Article 22. Jurisdiction*

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

(a) The offence is committed in the territory of that State Party; or [*agreed ad referendum*]

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time when the offence is committed. [*agreed ad referendum*]

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when: [*agreed ad referendum*]

(a) The offence is committed against a national of that State Party; or [*agreed ad referendum*]

(b) The offence is committed by a national of that State Party or a stateless person with habitual residence in its territory; or [*agreed ad referendum*]

(c) The offence is one of those established in accordance with article 16, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 16, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory; or [*agreed ad referendum*]

(d) The offence is committed against the State Party.

3. For the purposes of article 37, paragraph 11, of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that the person is one of its nationals. [*agreed ad referendum*]

4. Each State Party may also adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite the person. [*agreed ad referendum*]

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions. [*agreed ad referendum*]

6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law. [*agreed ad referendum*]

## **Chapter IV**

### **Procedural measures and law enforcement**

#### *Article 23. Scope of procedural measures*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish the powers and procedures provided for in this chapter for the purpose of specific criminal investigations or proceedings.
2. Except as provided otherwise in this Convention, each State Party shall apply the powers and procedures referred to in paragraph 1 of this article to:
  - (a) The criminal offences established in accordance with this Convention;
  - (b) Other criminal offences committed by means of an information and communications technology system; and
  - (c) The collection of evidence in electronic form of any criminal offence.
3.
  - (a) Each State Party may reserve the right to apply the measures referred to in article 29 only to offences or categories of offences specified in the reservation, provided that the range of such offences or categories of offences is not more restricted than the range of offences to which it applies the measures referred to in article 30. Each State Party shall consider restricting such a reservation to enable the broadest application of the measure referred to in article 29;
  - (b) Where a State Party, owing to limitations in its legislation in force at the time of the adoption of the present Convention, is not able to apply the measures referred to in articles 29 and 30 to communications being transmitted within a information and communications technology system of a service provider, which:
    - (i) Is being operated for the benefit of a closed group of users; and
    - (ii) Does not employ public communications networks and is not connected with another information and communications technology system, whether public or private;

that State Party may reserve the right not to apply these measures to such communications. Each State Party shall consider restricting such a reservation to enable the broadest application of the measures referred to in articles 29 and 30.

#### *Article 24. Conditions and safeguards*

[...]

#### *Article 25. Expedited preservation of stored electronic data*

1. Each State Party shall adopt such legislative and other measures as may be necessary to enable its competent authorities to order or similarly obtain the expeditious preservation of specified electronic data, including traffic data, content data and subscriber information, that have been stored by means of an information and communications technology system, in particular where there are grounds to believe that the electronic data are particularly vulnerable to loss or modification.
2. Where a State Party gives effect to paragraph 1 above by means of an order to a person to preserve specified stored electronic data in the person's possession or control, the State Party shall adopt such legislative and other measures as may be necessary to oblige that person to preserve and maintain the integrity of those electronic data for a period of time as long as necessary, up to a maximum of ninety days, to enable the competent authorities to seek its disclosure. A State Party may provide for such an order to be subsequently renewed.
3. Each State Party shall adopt such legislative and other measures as may be necessary to oblige the custodian or other person who is to preserve the electronic

data to keep confidential the undertaking of such procedures for the period of time provided for in its domestic legislation.

[*agreed ad referendum*]

*Article 26. Expedited preservation and partial disclosure of traffic data*

Each State Party shall adopt, in respect of traffic data that are to be preserved under the provisions of the article on the expedited preservation of stored electronic data, such legislative and other measures as may be necessary to:

(a) Ensure that such expeditious preservation of traffic data is available regardless of whether one or more service providers were involved in the transmission of that communication; and

(b) Ensure the expeditious disclosure to the State Party's competent authority, or a person designated by that authority, of a sufficient amount of traffic data to enable the State Party to identify the service providers and the path through which the communication or indicated information was transmitted.

[*agreed ad referendum*]

*Article 27. Production order*

Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order:

(a) A person in its territory to submit specified electronic data in that person's possession or control that are stored in an information and communications technology system or an electronic data storage medium; and

(b) A service provider offering its services in the territory of the State Party to submit subscriber information relating to such services in that service provider's possession or control.

[*agreed ad referendum*]

*Article 28. Search and seizure of stored electronic data*

1. Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access:

(a) An information and communications technology system, part of it, and electronic data stored therein; and

(b) An electronic data storage medium in which the electronic data sought may be stored;

in the territory of that State Party.

2. Each State Party shall adopt such legislative and other measures as may be necessary to ensure that, where its authorities search or similarly access a specific information and communications technology system or part of it, pursuant to paragraph 1 (a) of this article, and have grounds to believe that the electronic data sought are stored in another information and communications technology system or part of it in its territory, and such data are lawfully accessible from or available to the initial system, such authorities shall be able to expeditiously conduct the search to obtain access to that other information and communications technology system.

3. Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure electronic data in its territory accessed in accordance with paragraph 1 or 2. These measures shall include the power to:

(a) Seize or similarly secure an information and communications technology system or part of it, or an electronic data storage medium;

- (b) Make and retain copies of those electronic data in electronic form;
- (c) Maintain the integrity of the relevant stored electronic data;
- (d) Render inaccessible or remove those electronic data in the accessed information and communications technology system.

4. Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order any person who has knowledge about the functioning of the [information and communications technology system in question, the information and telecommunications network, or their component parts, or measures applied to protect the electronic data therein, to provide, as is reasonable, the necessary information to enable the undertaking of the measures referred to in paragraphs 1 to 3 of this article.

[*agreed ad referendum*]

*Article 29. Real-time collection of traffic data*

1. Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to:

- (a) Collect or record, through the application of technical means in the territory of that State Party; and
- (b) Compel a service provider, within its existing technical capability:
  - (i) To collect or record, through the application of technical means in the territory of that State Party; or
  - (ii) To cooperate and assist the competent authorities in the collection or recording of;

traffic data, in real time, associated with specified communications in its territory transmitted by means of an information and communications technology system.

2. Where a State Party, owing to the principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1 (a), it may instead adopt such legislative and other measures as may be necessary to ensure the real-time collection or recording of traffic data associated with specified communications transmitted in its territory, through the application of technical means in that territory.

3. Each State Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.

*Article 30. Interception of content data*

1. Each State Party shall adopt such legislative and other measures as may be necessary, in relation to a range of serious criminal offences to be determined by domestic law, to empower its competent authorities to:

- (a) Collect or record, through the application of technical means in the territory of that State Party; and
- (b) Compel a service provider, within its existing technical capability:
  - (i) To collect or record, through the application of technical means in the territory of that State Party; or
  - (ii) To cooperate and assist the competent authorities in the collection or recording of;

content data, in real time, of specified communications in its territory transmitted by means of an information and communications technology system.

2. Where a State Party, owing to the principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1 (a), it may instead adopt such legislative

and other measures as may be necessary to ensure the real-time collection or recording of content data on specified communications in its territory, through the application of technical means in that territory.

3. Each State Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.

*Article 31. Freezing, seizure and confiscation of the proceeds of crime*

1. Each State Party shall adopt, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable the confiscation of: *[agreed ad referendum]*

(a) Proceeds of crime derived from offences established in accordance with this Convention or property the value of which corresponds to that of such proceeds; *[agreed ad referendum]*

(b) Property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this Convention. *[agreed ad referendum]*

2. Each State Party shall adopt such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation. *[agreed ad referendum]*

3. Each State Party shall adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to regulate the administration by the competent authorities of frozen, seized or confiscated property covered in paragraphs 1 and 2 of this article. *[agreed ad referendum]*

4. If proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds. *[agreed ad referendum]*

5. If proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds. *[agreed ad referendum]*

6. Income or other benefits derived from proceeds of crime, from property into which proceeds of crime have been transformed or converted or from property with which proceeds of crime have been intermingled, shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime. *[agreed ad referendum]*

7. For the purposes of this article and article 50 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. A State Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy. *[agreed ad referendum]*

8. Each State Party may consider the possibility of requiring that an offender demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law and with the nature of the judicial and other proceedings.

9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties. *[agreed ad referendum]*

10. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with the provisions of the domestic law of a State Party. *[agreed ad referendum]*

*[agreed ad referendum]*

*Article 32. Establishment of criminal record*

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as, and for the purpose that, it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention.

[*agreed ad referendum*]

*Article 33. Protection of witnesses*

1. Each State Party shall take appropriate measures, in accordance with its domestic law and within its means, to provide effective protection from potential retaliation or intimidation for witnesses who give testimony or, in good faith and on reasonable grounds, provide information concerning offences established in accordance with this Convention or otherwise cooperate with investigative or judicial authorities and, as appropriate, for their relatives and other persons close to them.

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

(b) Providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the witness, such as permitting testimony to be given through the use of communications technology such as video links or other adequate means.

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

[*agreed ad referendum*]

*Article 34. Assistance to and protection of victims*

1. Each State Party shall take appropriate measures within its means to provide assistance and protection to victims of offences established in accordance with this Convention, in particular in cases of threat of retaliation or intimidation. [*agreed ad referendum*]

2. Each State Party shall, subject to its domestic law, establish appropriate procedures to provide access to compensation and restitution for victims of offences established in accordance with this Convention. [*agreed ad referendum*]

3. Each State Party shall, subject to its domestic law, enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence. [*agreed ad referendum*]

4. With respect to the offences established in accordance with articles 13 to 15, each State Party shall, subject to its domestic law, take measures to provide assistance to victims of such offences, including for their physical and psychological recovery, in cooperation with relevant international organizations, non-governmental organizations, and other elements of civil society.

5. In applying the provisions of paragraphs 2 to 4, each State Party shall take into account the age, gender and the particular circumstances and needs of victims, including the particular circumstances and needs of children.



6. Each State Party shall, to the extent consistent with its domestic legal framework, take steps to ensure compliance with requests to remove or render inaccessible the content described in articles 13 and 15.

## **Chapter V**

### **International cooperation**

#### *Article 35. General principles of international cooperation*

[...]

#### *Article 36. Protection of personal data*

1. (a) A State Party transferring personal data pursuant to this Convention shall do so in accordance with its domestic law and any obligations the transferring Party may have under applicable international law. States Parties shall not be required to transfer personal data in accordance with this Convention if the data cannot be provided in compliance with their applicable laws concerning the protection of personal data;

(b) Where the transfer of personal data would not be compliant with paragraph 1, subparagraph (a), of this article, States Parties may seek to impose appropriate conditions, in accordance with such applicable laws, to achieve compliance in order to respond to a request for personal data;

(c) States Parties are encouraged to establish bilateral or multilateral arrangements to facilitate the transfer of personal data.

2. For personal data transferred in accordance with this Convention, States Parties shall ensure that the personal data received are subject to effective and appropriate safeguards in the respective legal frameworks of the States Parties.

3. Subject to paragraph 2 of this article, States Parties may transfer personal data obtained in accordance with this Convention to a third country or an international organization only with the prior authorization of the original transferring State Party, which may require that the authorization be provided in written form.

#### *Article 37. Extradition*

1. This article shall apply to the criminal offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party. When the extradition is sought for the purpose of serving a final sentence of imprisonment or another form of detention imposed in respect of an extraditable offence, the requested State Party may grant the extradition in accordance with domestic law. [*agreed ad referendum*]

2. Notwithstanding paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the criminal offences established in accordance with this Convention that are not punishable under its own domestic law. [*agreed ad referendum*]

3. If the request for extradition includes several separate criminal offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences. [*agreed ad referendum*]

4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies. [*agreed ad referendum*]

6. States Parties that make extradition conditional on the existence of a treaty shall: [*agreed ad referendum*]

(a) At the time of deposit of their instruments of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether they will take this Convention as the legal basis for cooperation in extradition with other States Parties to this Convention; and [*agreed ad referendum*]

(b) If they do not take this Convention as the legal basis for cooperation in extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article. [*agreed ad referendum*]

7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves. [*agreed ad referendum*]

8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition. [*agreed ad referendum*]

9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies. [*agreed ad referendum*]

10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent, and at the request of the requesting State Party, including when the request is transmitted through existing channels of the International Criminal Police Organization, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure the person's presence at extradition proceedings. [*agreed ad referendum*]

11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that the person is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decisions and conduct their proceedings in the same manner as in the case of any other offence of a comparable nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution. [*agreed ad referendum*]

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article. [*agreed ad referendum*]

13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such

law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof. [*agreed ad referendum*]

14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present. [*agreed ad referendum*]

15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, language, religion, nationality, ethnic origin or political opinions, or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters. [*agreed ad referendum*]

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation. [*agreed ad referendum*]

18. The requested State Party shall inform the requesting State Party of its decision with regard to the extradition. The requested State Party shall inform the requesting State Party of any reason for refusal of extradition unless the requested State Party is prevented from doing so by its domestic law or its international legal obligations.

19. Each State Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary-General of the United Nations the name and address of an authority responsible for making or receiving requests for extradition or provisional arrest. The Secretary-General shall set up and keep updated a register of authorities so designated by the States Parties. Each State Party shall ensure that the details held in the register are correct.

20. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition. [*agreed ad referendum*]

#### *Article 38. Transfer of sentenced persons*

States Parties may, taking into consideration the rights of sentenced persons consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention, in order that they may complete their sentences there. States Parties may also take into account issues relating to consent, rehabilitation and reintegration. [*agreed in informals*]

#### *Article 39. Transfer of criminal proceedings*

1. States Parties shall consider the possibility of transferring to one another proceedings for the criminal prosecution of an offence established in accordance with this Convention where such a transfer is deemed to be in the interests of the proper administration of justice, particularly in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

2. If a State Party that makes the transfer of criminal proceedings conditional on the existence of a treaty receives a request for transfer from another State Party with which it has no treaty in this matter, it may consider this Convention as the legal basis

for the transfer of criminal proceedings in respect of any offence to which this article applies. [*agreed ad referendum*]

*Article 40. General principles and procedures  
relating to mutual legal assistance*

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences established in accordance with this Convention, and for the purposes of the collection of evidence in electronic form of offences established in accordance with this Convention, [as well as of serious crimes]. [*agreed in informals*]
2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 18 of this Convention in the requesting State Party.
3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:
  - (a) Taking evidence or statements from persons;
  - (b) Effecting service of judicial documents;
  - (c) Executing searches and seizures, and freezing;
  - (d) Searching or similarly accessing, seizing or similarly securing, and disclosing electronic data stored by means of an information and communications technology system pursuant to article 44;
  - (e) Collecting real-time traffic data pursuant to article 45;
  - (f) Intercepting content data pursuant to article 46;
  - (g) Examining objects and sites;
  - (h) Providing information, evidentiary items, evidence and expert evaluations;
  - (i) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
  - (j) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
  - (k) Facilitating the voluntary appearance of persons in the requesting State Party;
  - (l) Recovering proceeds of crime;
  - (m) Any other type of assistance that is not contrary to the domestic law of the requested State Party.
4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.
5. The transmission of information pursuant to paragraph 3 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with

the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

6. The provisions of this article shall not affect obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.

7. Paragraphs 7 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty on mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 7 to 29 of this article in lieu thereof. States Parties are strongly encouraged to apply the provisions of those paragraphs if they facilitate cooperation.

8. States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, the requested State Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute an offence under the domestic law of the requested State Party. Assistance may be refused when requests involve matters of a *de minimis* nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention.

9. A person who is being detained or is serving a sentence in the territory of one State Party and whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences established in accordance with this Convention may be transferred if the following conditions are met:

(a) The person freely gives informed consent;

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

10. For the purposes of paragraph 8 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall, without delay, implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which the person was transferred for time spent in the custody of the State Party to which the person was transferred.

11. Unless the State Party from which a person is to be transferred in accordance with paragraphs 8 and 9 of this article so agrees, that person, regardless of the person's nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to the person's departure from the territory of the State from which the person was transferred.

12. (a) Each State Party shall designate a central authority or authorities that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual

legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory;

(b) Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority;

(c) The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention, and shall set up and keep updated a register of central authorities designated by the States Parties. Each State Party shall ensure that the details held in the register are correct at all times;

(d) Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

13. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.

14. Where not prohibited by their respective laws, central authorities of States Parties are encouraged to transmit and receive requests for mutual legal assistance, and communications related thereto, as well as evidence, in electronic form under conditions allowing the requested State Party to establish authenticity and ensuring the security of communications.

15. A request for mutual legal assistance shall contain:

(a) The identity of the authority making the request;

(b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;

(c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;

(d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;

(e) Where possible and appropriate, the identity, location and nationality of any person concerned, as well as the country of origin, description and location of any item or accounts concerned; [*agreed in informals*]

(f) Where applicable, the time period for which the evidence, information or other assistance is sought; and [*agreed in informals*]

(g) The purpose for which the evidence, information or other assistance is sought. [*agreed in informals*]

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.
18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness, victim or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by videoconference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party. If the requested State Party does not have access to the technical means necessary for holding a videoconference, such means may be provided by the requesting State Party, upon mutual agreement.
19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.
20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.
21. Mutual legal assistance may be refused:
- (a) If the request is not made in conformity with the provisions of this article;
  - (b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;
  - (c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;
  - (d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.
22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.
23. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.
24. Reasons shall be given for any refusal of mutual legal assistance.
25. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.
26. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

27. Before refusing a request pursuant to paragraph 20 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

28. Without prejudice to the application of paragraph 10 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of the person's liberty in that territory in respect of acts, omissions or convictions prior to the person's departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which the person has been officially informed that the presence of the person is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of the person's own free will.

29. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

30. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

(b) May, at its discretion, provide to the requesting State Party, in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

31. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

#### *Article 41. 24/7 network*

1. Each State Party shall designate a point of contact available 24 hours a day, 7 days a week, in order to ensure the provision of immediate assistance for the purpose of specific criminal investigations, prosecutions or judicial proceedings concerning offences established in accordance with this Convention, or for the collection, obtaining and preservation of evidence in electronic form for the purposes of paragraph 3 of this article and in relation to the offences established in accordance with this Convention, [as well as to serious crime].

2. The Secretary-General of the United Nations shall be notified of such point of contact and keep an updated register of points of contact designated for the purposes of this article.

3. Such assistance shall include facilitating or, if permitted by the domestic law and practice of the requested State Party, directly carrying out the following measures:

(a) The provision of technical advice;

(b) The preservation of stored electronic data pursuant to articles 42 and 43, including, as appropriate, information about the location of the service provider, if



known to the requested State Party, to assist the requesting State Party in making a request;

(c) The collection of evidence, the provision of legal information and the locating of suspects; or

(d) The provision of electronic data to avert an emergency.

4. A State Party's point of contact shall have the capacity to carry out communications with the point of contact of another State Party on an expedited basis. If the point of contact designated by a State Party is not part of that State Party's authority or authorities responsible for mutual legal assistance or extradition, the point of contact shall ensure that it is able to coordinate with that authority or those authorities on an expedited basis. [*agreed ad referendum*]

5. Each State Party shall ensure that trained and equipped personnel are available to ensure the operation of the 24/7 network.

6. States Parties may also use and strengthen existing authorized networks of points of contact, where applicable, and within the limits of their domestic laws, including the 24/7 networks for computer-related crime of the International Criminal Police Organization for prompt police-to-police cooperation and other methods of information exchange cooperation.

*Article 42. International cooperation for the purpose of expedited preservation of stored electronic data*

1. A State Party may request another State Party to order or otherwise obtain, in accordance with article 25, the expeditious preservation of electronic data stored by means of an information and communications technology system located within the territory of that other State Party, and in respect of which the requesting State Party intends to submit a request for mutual legal assistance in the search or similar access, seizure or similar securing, or disclosure of the electronic data.

2. The requesting State Party may use the 24/7 network provided for in article 41 to seek information concerning the location of the electronic data stored by means of an information and communications technology system and, as appropriate, information about the location of the service provider.

3. A request for preservation made under paragraph 1 shall specify:

(a) The authority seeking the preservation; [*agreed ad referendum*]

(b) The offence that is the subject of a criminal investigation, prosecution or judicial proceeding and a brief summary of the related facts;

(c) The stored electronic data to be preserved and their relationship to the offence; [*agreed ad referendum*]

(d) Any available information identifying the custodian of the stored electronic data or the location of the information and communications technology system; [*agreed ad referendum*]

(e) The necessity of the preservation; [*agreed ad referendum*]

(f) That the requesting State Party intends to submit a request for mutual legal assistance in the search or similar access, seizure or similar securing, or disclosure of the stored electronic data; [*agreed ad referendum*]

(g) As appropriate, the need to keep the request for preservation confidential and not to notify the user. [*agreed ad referendum*]

4. Upon receiving the request from another State Party, the requested State Party shall take all appropriate measures to preserve expeditiously the specified electronic data in accordance with its domestic law. For the purposes of responding to a request, dual criminality shall not be required as a condition for providing such preservation. [*agreed ad referendum*]

5. A State Party that requires dual criminality as a condition for responding to a request for mutual legal assistance in the search or similar access, seizure or similar securing, or disclosure of stored electronic data may, in respect of offences other than those established in accordance with this Convention, reserve the right to refuse the request for preservation under this article in cases where it has reasons to believe that, at the time of disclosure, the condition of dual criminality could not be fulfilled.

6. A request for preservation may only be refused on the basis of the grounds contained in article 40, paragraph 21, subparagraphs (b) and (c).

7. Where the requested State Party believes that preservation will not ensure the future availability of the data or will threaten the confidentiality of or otherwise prejudice the requesting State Party's investigation, it shall promptly so inform the requesting State Party, which shall then determine whether the request should nevertheless be executed.

7. Any preservation effected in response to a request made pursuant to paragraph 1 shall be for a period of not less than sixty days, in order to enable the requesting State Party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the data. Following the receipt of such a request, the data shall continue to be preserved pending a decision on that request.

8. Before the expiry of the preservation limit in paragraph 7, the requesting State Party may request an extension of the period of preservation.

*Article 43. International cooperation for the purpose of expedited disclosure of preserved traffic data*

1. Where, in the course of the execution of a request made pursuant to article 42 to preserve traffic data concerning a specific communication, the requested State Party discovers that a service provider in another State Party was involved in the transmission of the communication, the requested State Party shall expeditiously disclose to the requesting State Party a sufficient amount of traffic data to identify that service provider and the path through which the communication was transmitted. [agreed ad referendum]

2. Disclosure of traffic data under paragraph 1 may only be refused on the basis of the grounds contained in article 40, paragraph 21, subparagraphs (b) and (c).

*Article 44. Mutual legal assistance in accessing stored electronic data*

1. A State Party may request another State Party to search or similarly access, seize or similarly secure, and disclose electronic data stored by means of an information and communications technology system located within the territory of the requested State Party, including electronic data that have been preserved pursuant to article 42.

2. The requested State Party shall respond to the request through the application of relevant international instruments and laws referred to in article 35, and in accordance with other relevant provisions of this chapter. [agreed ad referendum]

3. The request shall be responded to on an expedited basis where: [agreed ad referendum]

(a) There are grounds to believe that the relevant data are particularly vulnerable to loss or modification; or [agreed ad referendum]

(b) The instruments and laws referred to in paragraph 2 otherwise provide for expedited cooperation. [agreed ad referendum]

*Article 45. Mutual legal assistance in the real-time collection of traffic data*

1. States Parties [shall] [may] provide mutual legal assistance to each other in the real-time collection of traffic data associated with specified communications in their

territory transmitted by means of an information and communications technology system. Subject to the provisions of paragraph 2, such assistance shall be governed by the conditions and procedures provided for under domestic law.

2. Each State Party [shall] [may] provide such assistance at least with respect to criminal offences for which the real-time collection of traffic data would be available in a similar domestic case.
3. A request made in accordance with paragraph 1 of this article shall specify:
  - (a) The name of the requesting authority;
  - (b) A summary of the main facts and the nature of the investigation, prosecution or judicial proceeding to which the request relates;
  - (c) The electronic data in relation to which the collection of the traffic data is required and their relationship to the offence or other illegal act;
  - (d) Any available data that identify the owner or user of the data or the location of the information and communications technology system;
  - (e) Justification for the need to collect the traffic data;
  - (f) The period for which traffic data are to be collected and a corresponding justification of its duration.

*Article 46. Mutual legal assistance in the interception of content data*

States Parties [shall] [may] provide mutual legal assistance to each other in the real-time collection or recording of content data of specified communications transmitted by means of an information and communications technology system, to the extent permitted under treaties applicable to them or under their domestic laws.

*Article 47. Law enforcement cooperation*

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences established in accordance with this Convention. States Parties shall, in particular, take effective measures:

- (a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services, taking into account existing channels, including those of the International Criminal Police Organization, in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences established in accordance with this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities; [*agreed in informals*]
- (b) To cooperate with other States Parties in conducting inquiries with respect to offences established in accordance with this Convention concerning: [*agreed ad referendum*]
  - (i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned; [*agreed ad referendum*]
  - (ii) The movement of proceeds of crime or property derived from the commission of such offences; [*agreed ad referendum*]
  - (iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences; [*agreed ad referendum*]
- (c) To provide, where appropriate, necessary items or data for analytical or investigative purposes; [*agreed ad referendum*]

(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit the offences established in accordance with this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities, as well as cybercrime tactics, techniques and procedures ; [*agreed ad referendum*]

(e) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers; [*agreed ad referendum*]

(f) To exchange information and coordinate administrative and other measures taken, as appropriate, for the purpose of early identification of the offences established in accordance with this Convention.

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences established in accordance with this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

#### *Article 48. Joint investigations*

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of criminal investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigations are to take place is fully respected.

#### *Article 49. Mechanisms for the recovery of property through international cooperation in confiscation*

1. Each State Party, in order to provide mutual legal assistance pursuant to article 50 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

(b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and [*agreed ad referendum*]

(c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases. [*agreed ad referendum*]

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to article 50, paragraph 2, of this Convention, shall, in accordance with its domestic law: [*agreed ad referendum*]

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for the purposes of paragraph 1 (a) of this article; [*agreed ad referendum*]

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for the purposes of paragraph 1 (a) of this article; and [*agreed ad referendum*]

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property. [*agreed ad referendum*]

*Article 50. International cooperation for the purposes of confiscation*

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for the confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or [*agreed ad referendum*]

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with article 31, paragraph 1, of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities situated in the territory of the requested State Party.

2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

3. The provisions of article 40 are applicable, *mutatis mutandis*, to this article. In addition to the information specified in article 40, paragraph 14, requests made pursuant to this article shall contain: [*agreed ad referendum*]

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location, and where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law; [*agreed ad referendum*]

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process, and a statement that the confiscation order is final; [*agreed ad referendum*]

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions

requested and, where available, a legally admissible copy of an order on which the request is based. [*agreed ad referendum*]

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral treaty, agreement or arrangement to which it may be bound in relation to the requesting State Party. [*agreed ad referendum*]

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations. [*agreed ad referendum*]

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis. [*agreed ad referendum*]

7. Cooperation under this article may also be refused or provisional measures may be lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a *de minimis* value. [*agreed ad referendum*]

8. Before lifting any provisional measure taken pursuant to this article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure. [*agreed ad referendum*]

9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties. [*agreed ad referendum*]

10. States Parties shall consider concluding bilateral or multilateral treaties, agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this article. [*agreed ad referendum*]

#### *Article 51. Special cooperation*

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own criminal investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out criminal investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under article 50 of the Convention.

#### *Article 52. Return and disposal of confiscated proceeds of crime or property*

1. Proceeds of crime or property confiscated by a State Party pursuant to article 31 or 50 of this Convention shall be disposed of by that State Party in accordance with its domestic law and administrative procedures. [*agreed ad referendum*]

2. When acting on a request made by another State Party in accordance with article 50 of this Convention, States Parties shall, to the extent permitted by domestic law and if so requested, give priority consideration to returning the confiscated proceeds of crime or property to the requesting State Party so that it can give compensation to the victims of the crime or return such proceeds of crime or property to their prior legitimate owners. [*agreed ad referendum*]

3. When acting on a request made by another State Party in accordance with articles 31 and 50 of this Convention, a State Party may, after due consideration has

been given to compensation of victims, give special consideration to concluding agreements or arrangements on:

(a) Contributing the value of such proceeds of crime or property or funds derived from the sale of such proceeds of crime or property or a part thereof to the account designated in accordance with article 56, paragraph 2 (c), of this Convention, and to intergovernmental bodies specializing in the fight against cybercrime;

(b) Sharing with other States Parties, on a regular or case-by-case basis, such proceeds of crime or property, or funds derived from the sale of such proceeds of crime or property, in accordance with its domestic law or administrative procedures.

## **Chapter VI**

### **Preventive measures**

#### *Article 53. Preventive measures*

1. Each State Party shall endeavour, in accordance with fundamental principles of its legal system, to develop and implement or maintain effective and coordinated policies and best practices to reduce existing or future opportunities for cybercrime through appropriate legislative, administrative or other measures. [*agreed ad referendum*]

2. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of relevant individuals and entities outside the public sector, such as non-governmental organizations, civil society organizations, academic institutions and private sector entities, as well as the general public, in the relevant aspects of prevention of the offences established in accordance with this Convention.

3. Preventive measures may include:

(a) Strengthening cooperation between law enforcement agencies or prosecutors and relevant individuals and entities outside the public sector, such as non-governmental organizations, civil society organizations, academic institutions and private sector entities for the purpose of addressing relevant aspects of preventing and combating the offences established in accordance with this Convention;

(b) Promoting public awareness regarding the existence, causes and gravity of the threat posed by the offences established in accordance with this Convention through public information activities, public education, media and information literacy programmes and curricula that promote public participation in preventing and combating such offences; [*agreed ad referendum*]

(c) Building and making efforts to increase the capacity of domestic criminal justice systems, including training and developing expertise among criminal justice practitioners, as part of national prevention strategies against the offences established in accordance with this Convention; [*agreed ad referendum*]

(d) Encouraging service providers to take effective preventive measures, where feasible in the light of national circumstances and to the extent permitted by domestic law, to strengthen the security of the service providers' products, services and customers;

(e) Recognizing the contributions of the legitimate activities of security researchers when intended solely to strengthen and improve the security of service providers' products, services and customers located within the territory of the State Party;

(f) Developing, facilitating and promoting programmes and activities in order to discourage those at risk of engaging in cybercrime from becoming offenders and to develop their skills in a lawful manner; [*agreed ad referendum*]

(g) Endeavouring to promote the reintegration into society of persons convicted of offences established in accordance with this Convention;

(h) Developing strategies and policies to prevent and eradicate gender-based violence that occurs through or is amplified by the use of information and communications technologies, taking into consideration the special circumstances and needs of persons in vulnerable situations;

(i) Undertaking specific and tailored efforts to keep children safe online, including through education and training on and raising public awareness of child sexual abuse or child sexual exploitation online and through revising domestic legal frameworks and enhancing international cooperation aimed at its prevention, as well as making efforts to ensure the swift removal of child sexual abuse and exploitation material;

(j) Enhancing the transparency of and promoting the contribution of the public to decision-making processes and ensuring that the public has adequate access to information; [*agreed ad referendum*]

(k) Respecting, promoting and protecting the freedom to seek, receive, [ and impart public] information concerning cybercrime; [*agreed ad referendum*]

(l) Developing or strengthening support programmes for victims of the offences established in accordance with this Convention;

(m) Preventing and detecting transfers of proceeds of crime and property related to the offences established in accordance with this Convention.

4. Each State Party shall take appropriate measures to ensure that the relevant competent authority or authorities responsible for preventing and combating cybercrime are known and accessible to the public, where appropriate, for the reporting, including anonymously, of any incident that may be considered a criminal offence established in accordance with this Convention.

5. States Parties shall endeavour to periodically evaluate existing relevant national legal frameworks and administrative practices with a view to identifying gaps and vulnerabilities and ensuring their relevance in the face of changing threats posed by the offences established in accordance with this Convention.

6. States Parties may collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. This includes participation in international projects aimed at the prevention of cybercrime.

7. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures to prevent cybercrime. [*agreed ad referendum*]

## **Chapter VII**

### **Technical assistance and information exchange**

#### *Article 54. Technical assistance and capacity-building*

1. States Parties shall, according to their capacity, consider affording one another the widest measure of technical assistance and capacity-building, including training and other forms of assistance, the mutual exchange of relevant experience and specialized knowledge and, where possible, the transfer of technology on mutually agreed terms, taking into particular consideration the interests and needs of developing States Parties, with a view to facilitating the prevention, detection, investigation and prosecution of the offences covered by this Convention.

2. States Parties shall, to the extent necessary, initiate, develop, implement or improve specific training programmes for their personnel responsible for the



prevention, detection, investigation and prosecution of the offences covered by this Convention.

3. Activities referred to in paragraphs 1 and 2 of this article may deal, to the extent permitted by domestic law, with the following: [*agreed ad referendum*]

(a) Methods and techniques used in the prevention, detection, investigation and prosecution of the offences covered by this Convention;

(b) Building capacity in the development and planning of strategic policies and legislation to prevent and combat cybercrime; [*agreed ad referendum*]

(c) Building capacity in the collection, preservation and sharing of evidence, in particular in electronic form, including the maintenance of the chain of custody and forensic analysis; [*agreed ad referendum*]

(d) Modern law enforcement equipment and the use thereof; [*agreed ad referendum*]

(e) Training of competent authorities in the preparation of requests for mutual legal assistance and other means of cooperation that meet the requirements of this Convention, especially for the collection, preservation and sharing of evidence in electronic form; [*agreed ad referendum*]

(f) Prevention, detection and monitoring of the movements of proceeds deriving from the commission of the offences covered by this Convention, property, equipment or other instrumentalities and methods used for the transfer, concealment or disguise of such proceeds, property, equipment or other instrumentalities; [*agreed ad referendum*]

(g) Appropriate and efficient legal and administrative mechanisms and methods for facilitating the seizure, confiscation and return of proceeds of offences covered by this Convention;

(h) Methods used in the protection of victims and witnesses who cooperate with judicial authorities; [*agreed ad referendum*]

(i) Training in relevant substantive and procedural law, and law enforcement investigation powers, as well as in national and international regulations and in languages. [*agreed ad referendum*]

4. States Parties shall endeavour, subject to their domestic law, to leverage the expertise of and cooperate closely with other States Parties and relevant non-governmental organizations, civil society organizations, academic institutions and private sector entities, with a view to enhancing the effective implementation of this Convention.

5. States Parties shall assist one another in planning and implementing research and training programmes designed to share expertise in the areas referred to in paragraph 3 of this article, and to that end shall also, when appropriate, use regional and international conferences and seminars to promote cooperation and to stimulate discussion on problems of mutual concern. [*agreed ad referendum*]

6. States Parties shall consider assisting one another, upon request, in conducting evaluations, studies and research relating to the types, causes and effects of offences covered by this Convention committed in their respective territories, with a view to developing, with the participation of the competent authorities and relevant non-governmental organizations, civil society organizations, academic institutions and private sector entities, strategies and action plans to prevent and combat cybercrime.

7. States Parties shall promote training and technical assistance that facilitates timely extradition and mutual legal assistance. Such training and technical assistance may include language training, assistance with the drafting and handling of mutual legal assistance requests, and secondments and exchanges between personnel in central authorities or agencies with relevant responsibilities. [*agreed ad referendum*]

8. States Parties shall strengthen, to the extent necessary, efforts to maximize the effectiveness of technical assistance and capacity-building in international and regional organizations and in the framework of relevant bilateral and multilateral agreements or arrangements.

9. States Parties shall consider establishing voluntary mechanisms with a view to contributing financially to the efforts of developing countries to implement this Convention through technical assistance programmes and capacity-building projects. [*agreed ad referendum*]

10. Each State Party shall consider making voluntary contributions to the United Nations Office on Drugs and Crime for the purpose of fostering, through the Office, programmes and projects with a view to implementing this Convention through technical assistance and capacity-building.

*Article 55. Exchange of information*

1. Each State Party shall consider analysing, as appropriate, in consultation with relevant experts, including from non-governmental organizations, civil society organizations, academic institutions and private sector entities, trends in its territory with respect to offences covered by this Convention, as well as the circumstances in which such offences are committed.

2. States Parties shall consider developing and sharing with each other and through international and regional organizations statistics, analytical expertise and information concerning cybercrime, with a view to developing, insofar as possible, common definitions, standards and methodologies, as well as best practices, to prevent and combat such crime.

3. Each State Party shall consider monitoring its policies and practical measures to prevent and combat offences covered by this Convention and making assessments of their effectiveness and efficiency.

4. States Parties shall consider exchanging information on legal, policy and technological developments related to cybercrime and the collection of evidence in electronic form. [*agreed ad referendum*]

*Article 56. Implementation of the Convention through economic development and technical assistance*

1. States Parties shall take measures conducive to the optimal implementation of this Convention to the extent possible, through international cooperation, taking into account the negative effects of the offences covered by this Convention on society in general and, in particular, on sustainable development.

2. States Parties are strongly encouraged to make concrete efforts, to the extent possible and in coordination with each other, as well as with international and regional organizations: [*agreed ad referendum*]

(a) To enhance their cooperation at various levels with other States Parties, in particular developing countries, with a view to strengthening their capacity to prevent and combat the offences covered by this Convention; [*agreed ad referendum*]

(b) To enhance financial and material assistance to support the efforts of other States Parties, in particular developing countries, in effectively preventing and combating the offences covered by this Convention and to help them to implement this Convention;

(c) To provide technical assistance to other States Parties, in particular developing countries, in support of meeting their needs regarding the implementation of this Convention. To that end, States Parties shall endeavour to make adequate and regular voluntary contributions to an account specifically designated for that purpose in a United Nations funding mechanism; [*agreed ad referendum*]

(d) To encourage, as appropriate, non-governmental organizations, civil society organizations, academic institutions and private sector entities, as well as financial institutions, to contribute to the efforts of States Parties, including in accordance with this article, in particular by providing more training programmes and modern equipment to developing countries in order to assist them in achieving the objectives of this Convention;

(e) To exchange best practices and information with regard to activities undertaken, with a view to improving transparency, avoiding duplication of effort and making best use of any lessons learned. [*agreed ad referendum*]

3. States Parties shall also consider using existing subregional, regional and international programmes, including conferences and seminars, to promote cooperation and technical assistance and to stimulate discussion on problems of mutual concern, including the special problems and needs of developing countries. [*agreed ad referendum*]

4. To the extent possible, States Parties shall ensure that resources and efforts are distributed and directed to support the harmonization of standards, skills, capacity, expertise and technical capabilities with the aim of establishing common minimum standards among States Parties to eradicate safe havens for the offences covered by this Convention and strengthen the fight against cybercrime.

5. To the extent possible, the measures taken under this article shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international levels. [*agreed ad referendum*]

6. States Parties may conclude bilateral, regional or multilateral agreements or arrangements on material and logistical assistance, taking into consideration the financial arrangements necessary for the means of international cooperation provided for by this Convention to be effective and for the prevention, detection, investigation and prosecution of the offences covered by this Convention.

## **Chapter VIII**

### **Mechanism of implementation**

#### *Article 57. Conference of the States Parties to the Convention*

1. A Conference of the States Parties to the Convention is hereby established to improve the capacity of and cooperation between States Parties to achieve the objectives set forth in this Convention and to promote and review its implementation. [*agreed ad referendum*]

2. The Secretary-General of the United Nations shall convene the Conference of the States Parties not later than one year following the entry into force of this Convention. Thereafter, regular meetings of the Conference shall be held in accordance with the rules of procedure adopted by the Conference.

3. The Conference of the States Parties shall adopt rules of procedure and rules governing the activities set forth in this article, including rules concerning the admission and participation of observers, and the payment of expenses incurred in carrying out those activities. Such rules and related activities shall take into account principles such as effectiveness, inclusivity, transparency, efficiency and national ownership.

4. In establishing its regular meetings, the Conference of the States Parties shall take into account the time and location of the meetings of other relevant international and regional organizations and mechanisms in similar matters, including their subsidiary treaty bodies, consistent with the principles identified in paragraph 3 of this article.

5. The Conference of the States Parties shall agree upon activities, procedures and methods of work to achieve the objectives set forth in paragraph 1 of this article, including: [*agreed ad referendum*]

(a) Facilitating the effective use and implementation of this Convention, the identification of any problems thereof, as well as the activities carried out by States Parties under this Convention, including encouraging the mobilization of voluntary contributions; [*agreed ad referendum*]

(b) Facilitating the exchange of information on legal, policy and technological developments pertaining to the offences established in accordance with this Convention and the collection of evidence in electronic form among States Parties and relevant international and regional organizations, as well as non-governmental organizations, civil society organizations, academic institutions and private sector entities, in accordance with domestic law, as well as on patterns and trends in cybercrime and on successful practices for preventing and combating such offences;

(c) Cooperating with relevant international and regional organizations, as well as non-governmental organizations, civil society organizations, academic institutions and private sector entities;

(d) Making appropriate use of relevant information produced by other international and regional organizations and mechanisms for preventing and combating the offences established in accordance with this Convention, in order to avoid unnecessary duplication of work;

(e) Reviewing periodically the implementation of this Convention by its States Parties; [*agreed ad referendum*]

(f) Making recommendations to improve this Convention and its implementation as well as considering possible supplementation or amendment of the Convention; [*agreed ad referendum*]

(g) Elaborating and adopting supplementary protocols to this Convention on the basis of article 61; [*agreed ad referendum*]

(h) Taking note of the technical assistance and capacity-building requirements of States Parties regarding the implementation of this Convention and recommending any action it may deem necessary in that respect. [*agreed ad referendum*]

6. Each State Party shall provide the Conference of the States Parties with information on legislative, administrative and other measures, as well as on its programmes, plans and practices, to implement this Convention, as required by the Conference. The Conference shall examine the most effective way of receiving and acting upon information, including, inter alia, information received from States Parties and from competent international organizations. Inputs received from representatives of other relevant stakeholders, duly accredited in accordance with procedures to be decided upon by the Conference, may also be considered.

7. For the purpose of paragraph 5 of this article, the Conference of the States Parties may establish and administer such review mechanisms as it considers necessary to supplement the information provided by States Parties and relevant international and regional organizations, as well as non-governmental organizations, civil society organizations, academic institutions and private sector entities, in accordance with paragraph 6 of this article. [*agreed ad referendum*]

8. Pursuant to paragraphs 5 to 7 of this article, the Conference of the States Parties shall establish, if it deems necessary, any appropriate mechanisms or subsidiary bodies to assist in the effective implementation of the Convention. [*agreed ad referendum*]

#### *Article 58. Secretariat*

1. The Secretary-General of the United Nations shall provide the necessary secretariat services to the Conference of the States Parties to the Convention.

2. The secretariat shall: [*agreed ad referendum*]
  - (a) Assist the Conference of the States Parties in carrying out the activities set forth in this Convention and make arrangements and provide the necessary services for the sessions of the Conference as they pertain to this Convention; [*agreed ad referendum*]
  - (b) Upon request, assist States Parties in providing information to the Conference of the States Parties, as envisaged in this Convention; and [*agreed ad referendum*]
  - (c) Ensure the necessary coordination with the secretariats of relevant international and regional organizations. [*agreed ad referendum*]

## **Chapter IX**

### **Final provisions**

#### *Article 59. Implementation of the Convention*

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention. [*agreed ad referendum*]
2. Each State Party may adopt more strict or severe measures than those provided for by this Convention for preventing and combating the offences established in accordance with this Convention.

#### *Article 60. Effects of the Convention*

1. If two or more States Parties have already concluded an agreement or treaty on the matters dealt with in this Convention or have otherwise established their relations on such matters, or should they in future do so, they shall also be entitled to apply that agreement or treaty or to regulate those relations accordingly.
2. Nothing in this Convention shall affect other rights, restrictions, obligations and responsibilities of a State Party under international law. [*agreed ad referendum*]

#### *Article 61. Relation with protocols*

[*agreed ad referendum*]

1. This Convention may be supplemented by one or more protocols.
2. In order to become a Party to a protocol, a State or a regional economic integration organization must also be a Party to this Convention.
3. A State Party to this Convention is not bound by a protocol unless it becomes a Party to the protocol in accordance with the provisions thereof.
4. Any protocol to this Convention shall be interpreted together with this Convention, taking into account the purpose of that protocol.

#### *Article 62. Settlement of disputes*

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation or any other peaceful means of their own choice. [*agreed ad referendum*]
2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation or other peaceful means within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the

arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation. [*agreed ad referendum*]

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations. [*agreed ad referendum*]

*Article 63. Signature, ratification, acceptance, approval and accession*  
[*agreed ad referendum*]

1. This Convention shall be open to all States for signature from [*date*] to [*date*] in [*city*], [*country*], and thereafter at United Nations Headquarters in New York until [*date*].

2. This Convention shall also be open for signature by regional economic integration organizations, provided that at least one member State of such an organization has signed this Convention in accordance with paragraph 1 of this article.

3. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Convention is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Convention. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

*Article 64. Entry into force*

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of that organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the fortieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date on which this Convention enters into force pursuant to paragraph 1 of this article, whichever is later.

*Article 65. Amendment*

1. After the expiry of five years from the entry into force of this Convention, a State Party may propose an amendment and transmit it to the Secretary-General of the United Nations, which shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the States Parties to the Convention for the purpose of considering and deciding on the proposal. The Conference shall make

every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa. [*agreed ad referendum*]

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties. [*agreed ad referendum*]

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment. [*agreed ad referendum*]

5. When an amendment enters into force, it shall be binding on those States Parties that have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Convention and any earlier amendments that they have ratified, accepted or approved. [*agreed ad referendum*]

#### *Article 66. Denunciation*

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General. [*agreed ad referendum*]

2. A regional economic integration organization shall cease to be a Party to this Convention when all of its member States have denounced it. [*agreed ad referendum*]

3. Denunciation of this Convention in accordance with paragraph 1 of this article shall entail the denunciation of any protocols thereto. [*agreed ad referendum*]

#### *Article 67. Depositary and languages* [*agreed ad referendum*]

1. The Secretary-General of the United Nations is designated depositary of this Convention.

2. The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

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