

**Ad Hoc Committee to Elaborate a  
Comprehensive International Convention  
on Countering the Use of Information and  
Communications Technologies for  
Criminal Purposes**

**Fifth session**

Vienna, 11–21 April 2023

**Consolidated negotiating document on the preamble, the  
provisions on international cooperation, preventive  
measures, technical assistance and the mechanism of  
implementation and the final provisions of a comprehensive  
international convention on countering the use of  
information and communications technologies for criminal  
purposes**

**Status as of 21 April 2023**

*Clusters, articles and paragraphs under informal consultations are indicated below.*

*Country abbreviations follow the ISO-3116 standard, with the following exceptions:*

*UK = United Kingdom of Great Britain and Northern Ireland;*

*EU & mS = European Union and its member States; HS = Holy See.*

*Delegations are advised to contact the Secretariat ([cybercrimeahc@un.org](mailto:cybercrimeahc@un.org)) in case  
their changes are not reflected and to kindly provide a copy thereof.*

**Preamble**

*The States Parties to the present Convention,*

[1] *Bearing in mind the purposes and principles of the Charter of the United Nations ~~[and the remit of the United Nations in harmonizing the actions of nations in achieving those purposes and fulfilling those principles]~~ which apply in cyberspace: EU & mS, NZ, NO, DO, AU, FJ, SG], [retain original – VE, DZ, MY]*

[1 bis] *Considering General Assembly resolution 74/274, which established an open-ended ad hoc intergovernmental committee of experts to elaborate a comprehensive international convention on countering the use of information and communication technologies for criminal purposes, as well as resolution 75/282,; RU, PK, EG, NI; against – AU]*

[1 bis] *Committed to promoting an open, secure, stable, accessible and peaceful cyberspace for all, where the application of international law and fundamental freedoms are promoted and human rights are protected,; MX]*

[1 bis] *Noting that information and communications technologies, while having enormous potential for the development of States, create new opportunities for perpetrators and may contribute to a rise in the levels and complexity of (crime cybercrime: NG),; CARICOM, NO, DO, KE, ID]*

[2] *Concerned about the negative effects on [development: LI, CH], peace ~~[and,; CO]~~ security [development: LI, CH] and [the enjoyment of: US, UK, NO, HS] human rights caused by [cybercrime] [the use of information and communications technologies for criminal purposes], ~~[which undermines democratic institutions and values, as well as justice, and adversely affects the rule of law: CN]~~ [and accountability: LI, NO, CH, AU], and [territorial integrity and the sovereignty of*

States: CM], the increasing vulnerability of States to such crime, [delete paragraph – RU, NI IR] [retain original – NG, DZ, MY]

[2 alt] *Concerned about the negative effects on development, peace and security and human rights caused by [cybercrime] [the use of information and communications technologies for criminal purposes], and the increasing vulnerability of States to such crime,:* CARICOM]

[2 alt] *Deeply concerned by the negative economic and social implications related to [cybercrime] [the use of information and communications technologies for criminal purposes], and convinced of the urgent need to strengthen cooperation to prevent and combat such activities more effectively at the national, regional and international levels:* BR, DO, IR, CO]

[2 alt] *Committed to promoting an open, secure, stable, accessible and peaceful cyberspace for all, where the application of international law and fundamental freedoms are promoted and human rights are protected,:* MX]

[2 bis] *Concerned about the seriousness of the problems and threats posed by crimes in the sphere of information and communication technologies to the stability and security of society, which undermine democratic institutions and values, justice, and adversely affect sustainable development and the rule of law,:* RU, NI PK]

[2 bis] *Highlighting the relevance for achieving the purposes enshrined in this Convention of, among many others, existing international instruments on: cooperation in criminal matters, particularly UNTOC and its Supplementary Protocols and UNCAC; on human rights, particularly the Universal Declaration on Human Rights and the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights; the protection of children, particularly the Convention on the Rights of the Child and its Optional Protocol I; the empowerment of women; the elimination of all forms of discrimination; copyrights and related rights; narcotic drugs, and cultural goods,:* MX; against - EG]

[3] *Concerned also by the increase in the rate and diversity of crimes committed [~~in the digital (world) environment:~~ PK, RU] through the use of information and communications technologies: CARICOM, DO, ID] [in cyberspace: CL] and its impact on [~~the stability of critical infrastructure of:~~ EU & mS, UK, LI, CL, NZ, NO, AU, CO] States and enterprises and on the well-being of individuals and society as a whole, [retain original – NG, VE, DZ, CR, KE, MY]*

[[3] *Concerned also by the increased prevalence of cybercrime [~~in the rate and diversity of crimes committed in the digital world~~] and its impact on [~~the stability of critical infrastructure of~~] States and enterprises and on the well-being of individuals and society as a whole,:* AU]

[3 bis] *Bearing in mind that each State has sovereignty and exercises jurisdiction over its information space in accordance with its domestic law,:* RU; against – AU, JP, FJ]

[4] *Noting with deep concern the growing [~~links between [cybercrime] [the:~~ MX] use of information and communications technologies for criminal purposes] and [~~transnational organized crime~~] and its negative effects on development, peace and security and human rights, which undermines democratic institutions and values, as well as justice, and adversely affects the rule of law, and as well as the increasing vulnerability of States to such crimes: MX; against - EG], [delete paragraph – RU, NI BR, DZ; retain original – MY]*

[4 alt] *Noting with deep concern the growing use of [cybercrime] [the use of information and communications technologies for criminal purposes] in criminal activities:* AR]

[4 alt] *Noting with deep concern the growing links between cybercrime, transnational organised crime and terrorism,:* CM]

[4 bis] Determined to deny safe havens to those who engage in cybercrime by prosecuting these crimes wherever they occur and by cooperating at the international level,: EU & mS, NZ, NO, DO, FJ, SG]

[4 bis] Commending of the work of the United Nations Office on Drugs and Crime, particularly its Global Programme on Cybercrime, in its efforts to assist MS in preventing and combatting cybercrime,: US, DO, AU, SG]

[4 bis] Recognizing that technological change is accelerating and that new developments in this field will persistently challenge the responses aimed at preventing and combating crimes committed with the use of new technological advances, and convinced, therefore, of the need to pursue, as a matter of priority, a common criminal policy aimed at the protection of society and individuals against those crimes, inter alia, by adopting appropriate legislation and fostering international cooperation.: MX]

[4 ter] Acknowledging the transnational dimension of this type of crimes and the urgent need to strengthen cooperation to prevent and combat such crimes more effectively at the national, regional and international levels,: MX]

[4 ~~quater~~quarter] Welcoming developments which further advance international understanding and cooperation in combating cyber-dependent and cyber-enabled crimes,: MX]

[5] [Commending the work carried out by other international and regional organizations in this field, and, in this regard, ~~Noting~~: MX] with appreciation the past work, results, and recommendations of the open-ended intergovernmental Expert Group to Conduct a Comprehensive Study on Cybercrime, [delete paragraph – DZ] [retain original – KE, MY]

[5 bis] Noting General Assembly resolution 74/274, which established an open-ended ad hoc intergovernmental committee of experts to elaborate a comprehensive international convention on countering the use of information and communication technologies for criminal purposes,: IR]

[6] [Recognizing that technological change is accelerating and that new developments in this field will persistently challenge the responses aimed at preventing and combating crimes committed with the use of new technological advances and: MX] Convinced [therefore: MX] of the need to pursue, as a matter of priority, a [common-global: EU & mS, NZ, NO, AU, RS] [understanding in: AR] criminal [justice: AU, CR] policy aimed at [the-protectionprotecting: US, LI] [of society: US, LI] [and individuals: MX] against [those crimes: MX] [cybercrime] [the use of information and communications technologies for criminal purposes], inter alia, by adopting appropriate [domestic: PK, RU] legislation and fostering international cooperation, [delete paragraph – UK, LI, DO, AU, FJ; retain original - MY]

[6 bis] Convinced of the need to pursue, as a matter of priority, expedited collection and sharing of electronic evidence, to ensure that investigations and prosecutions against [cybercrime] [the use of information and communications technologies for criminal purposes] are conducted in a timely and effective manner, inter alia, by adopting appropriate legislation and fostering international cooperation aimed at the protection of society,: IN]

[7] Convinced also that [~~cybercrime~~] [~~the use of information and communications technologies for criminal purposes~~] [mostly: BF] [may: UK, AR, AU, CO, DZ] ~~constitutes transnational crime, which therefore demonstrates the~~there is an: RU] urgent need to strengthen cooperation to [~~prevent and combat~~counter: RU] such crime[s: RU] [committed with the use of information and communications technologies: RU] more effectively at the national, regional and international levels, [delete paragraph – EU & mS, BR, NZ, NO, DO, AU, RS, FJ; retain original – MY]

[7 *alt*] Convinced also there is an urgent need to strengthen cooperation to counter the spread of crimes committed using technologies more effectively at the national, regional, and international levels.: PK]

[7 *bis*] Convinced that this Convention is necessary to deter the use of information and communications technologies for criminal purposes, as it provides for the criminalization of such conduct, as described in this Convention, and the adoption of powers sufficient for effectively combating such offences, facilitates their detection, prevention, suppression, investigation and prosecution at both the domestic and international levels and provides for arrangements for fast and reliable international cooperation.: RU]

[7 *ter*] Emphasizing the importance of technical cooperation and capacity building, including the transfer of technology, to reinforce the capabilities of law enforcement agencies, in particular of the developing countries on fair and reasonable terms, to create an environment of technology neutrality for the attainment of the shared goal of preventing criminal activities.: PK]

[7 *quater*] Reaffirming the importance of recovering and returning proceeds of criminal activity, including assets derived from illicit gains, as a crucial element in achieving successful prosecution and delivering justice to the rightful owners.: PK]

[8] Stressing the need to enhance coordination and cooperation among States in ~~[preventing and combating]~~ countering: RU] [cybercrime] [the use of information and communications technologies for criminal purposes] [this type of crime: MX], including by providing technical assistance and capacity-building to countries, in particular developing countries [especially small island developing states: VU] [and landlocked developing States: PY] ~~[-(upon: based on: US; against – NG) their request, to improve national legislation and frameworks and:~~ MX] [for: MX] [enhance enhancing: MX] ~~[the-their:~~ MX] capacity ~~[of national authorities:~~ MX] to deal with such crime [crimes: MX] ~~[in all its forms:~~ MX], including its [prevention: RU] detection, [prevention, disruption: RU] investigation and prosecution, and emphasizing in this context the role that the United Nations, ~~[in particular the Commission on Crime Prevention and Criminal Justice:~~ BR, MY, IR, TH, DZ, IN, FJ, MY], plays, [retain original – DO, NG, VE]

[9] Recognizing the ~~[growing-increasing:~~ CARICOM, NO, IR, NG] number of victims of [these crimes: MX] [cybercrime] ~~[(committed with:~~ RU) the use of information and communications technologies ~~(for criminal purposes:~~ RU)] [and considering violence against women and girls and children, from a gender perspective: UY, CR; against – NG] and the importance of obtaining justice [support and remediation: AU] for those victims, [as well as the need to avoid producing partial effects arising from differences in gender, age, socioeconomic status, familiarity with technologies and other conditions in the prevention of and fight against cybercrime: JP] [as well as the need to avoid producing gender-differentiated effects in the prevention of and fight against cybercrime.: EU & mS, NZ, NO, AU, RS; against – NG] [retain original – HS, MY, FJ]

[9 *alt*] Recognizing the need to properly address the gender dimension of cybercrime, and its different impacts on women and men.: CO; against – FJ]

[10] Committed to promoting an open, secure, ~~[stable]~~trusted and accountable: IN], accessible and peaceful [internet: US, AU, CO] cyberspace for all, where ~~[the application-of:~~ UY, AR, CH] international law [human rights and: CH] ~~[and fundamental freedoms:~~ IN] [and the rule of law: LI, NO] are [respected.: UY, EU & mS, US, LI, NO, AR, DZ, CR, CH] ~~[promoted:~~ EU & mS, IN;] ~~[and human rights are protected:~~ IN], ~~[delete paragraph – RU, NI CARICOM, EG] [retain original – VE, KE, MY]~~

[10] Committed to promoting an open, secure, stable, accessible and peaceful cyberspace-internet for all, where the application of international law is promoted and human rights and fundamental freedoms ~~are promoted and human rights~~ are protected.: AU]

[10 alt] Committed to promoting open, secure, stable, accessible, and peaceful cyberspace for all, and ensuring that law enforcement and national security agencies of State Parties have the necessary tools and resources to address threats posed by misuse of information and communication technologies. PK]

[10 alt] Committed to promoting an open, secure, stable, accessible and peaceful cyberspace for all, where international law, fundamental freedoms and the rule of law are respected and human rights are protected. DO]

[10 bis] Determined to deny safe havens to those who engage in [cybercrime] [the use of information and communications technologies for criminal purposes] by prosecuting their crimes wherever they occur and by cooperating at the international level. PY, PE]

[11] *Determined to* ~~[prevent: RU]~~ detect~~[, prevent: RU]~~ and ~~[suppressdeter: CARICOM, NO, KE]~~ more effectively ~~[international transfers of (assets illicitly/illegally: LI, NO)-acquired]~~ property obtained by criminal means: CARICOM, EG MY] as a result of [cybercrime] [(committed with: RU) the use of information and communications technologies (~~for criminal purposes: RU~~)], and to strengthen international cooperation in the recovery ~~[of property and return of (proceeds of crime: DZ): PK]~~ [such as assets and property: DZ], ~~[retain original – NG]~~ ~~[delete paragraph – CH]~~

[11 alt] Determined to strengthen international cooperation in the recovery of property. EU & mS, LI, NZ, NO, AU, RS, SG, FJ]

[11 alt] Determined to prevent, detect and deter more effectively international transfers of assets obtained as a result of cybercrime, and to strengthen international cooperation in the recovery of assets. DO]

[12] *Recognizing* ~~[respect for: AU]~~ the principles of sovereignty, ~~[non-intervention in the internal affairs of States: EG]~~ sovereign equality and ~~[territorial integrity: CM]~~ ~~[and (non-interference: CM) in the domestic matters of other Member States: PK]~~ of States, ~~[and non-intervention in the domestic affairs of States as enshrined in the Charter of the United Nations: IR]~~ ~~[as applicable in cyberspace: AU]~~ ~~[while taking into account the specificities of cyberspace: EU & mS, DO, RS]~~ ~~[delete paragraph – RU, NI NE; retain original – MY]~~

[12 bis] Recognizing the need to avoid any action or unilateral coercive measure that undermines or has detrimental consequences on the realization of international cooperation in the Convention: IR]

[13] *Recognizing also* the ~~[need for cooperation between States and role of: UY, AU, CO]~~ ~~[civil society, academia and private industry]~~ other (relevant: ID) stakeholders: IN, ID] in ~~[preventing and: EU & mS, NO, CO, CR]~~ ~~[combating-counteracting: RU]~~ [cybercrime] [(committed with: RU) the use of information and communications technologies (~~for criminal purposes: RU~~)] ~~[and the need to protect legitimate interests in the use and development of information technologies: EU & mS, LI, NO, AU, CO]~~ ~~[delete paragraph – US, CARICOM, UK, KE; retain original – MY]~~

[13 alt] Recognizing also the need for cooperation between States Parties and Civil society, academia, private entities, and service providers in combating crimes committed by the use of information technologies and to protect legitimate interests in the use of development of information technologies. PK]

[13 alt] Recognizing also the importance of cooperation between States and civil society, academia and private industry in the fight against cybercrime, and the need to protect legitimate interests in the use and development of information technology. CM]

[14] *Convinced* that this Convention is necessary to deter [cybercrime] [the use of information and communications technologies for criminal purposes], as it provides for the criminalization of such conduct, as described in this Convention, and the adoption of powers sufficient for effectively combating such ~~[criminal: CARICOM]~~

offences, facilitates their [prevention: IR] detection, investigation and prosecution ~~[at both the domestic and international levels: EU & mS, NZ]~~ and provides for arrangements for ~~[(fast)timely: AU] and reliable: CARICOM, KE]~~ [and effective: UY, DO] international cooperation, ~~[delete paragraph – RU, NI US, NE; retain original – MY]~~

[14 alt] Convinced that this Convention is necessary to deter the use of technologies for criminal purposes, as it provides for the criminalization of such conduct, as described in this Convention, and the adoption of powers sufficient for effectively combating such criminal offences, facilitates their detection, prevention, suppression, investigation, and prosecution at both the domestic and international levels and provides for arrangements for fast and reliable international cooperation.: PK]

~~[15] Mindful of the need to (ensure a proper) achieve: CARICOM, TH) balance between (the interests: RU) of law enforcement (objectives: RU, NI NE) and respect for human rights as enshrined in (applicable: EU & mS, UK, NZ, CR, CH) (international: HS) (and regional: RU, NI HS) human rights (and fundamental freedoms: LI) that criminal prosecution takes place within the framework of respect for human rights as enshrined in the: UY, AR, AU, PE] [conventions and: RU] treaties[, which reaffirm (inter alia: LI) the right of everyone to hold opinions without interference, as well as the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, and the (rights concerning respect for) right to: EU & MS, LI, NZ, CR) privacy; RU, NI CARICOM, CN, SG, TH, DZ, MY] [delete paragraph: IR, IN, EG] [retain paragraph: PE]~~

[15 alt] Mindful of the interests of law enforcement and the need to ensure respect for human rights and fundamental freedoms as enshrined in applicable international and regional human rights instruments, which reaffirm, inter alia, the rights of everyone to hold opinions without interference, to freedom of expression, and to be free from arbitrary and unlawful interference with privacy: US]

[15 alt] Mindful of the need to ensure a proper balance between the respect for human rights as enshrined in applicable international and regional human rights conventions and treaties and the interests of law enforcement.: SG]

[15 alt] Mindful of the need to ensure a proper balance between the interests of law enforcement objectives and respect for human rights as enshrined in applicable international human rights treaties.: PK]

[15 alt] Mindful of the need to ensure a proper balance between the interests of law enforcement and respect for human rights.: MY, SG]

[15 alt] Mindful of the interests of law enforcement and the need to protect the rights of victims of crime.: DO]

[15 bis] ....: PE]

~~[16] Mindful also of the [right to the protection importance: UK, AU] of personal data, which helps individuals exercise control over information relating to themselves that may be unlawfully collected and used by others, [delete paragraph – CARICOM, SG, DO, KE, IN; retain original – MY]~~

[16 alt] Acknowledging the right to the protection of personal data, which has the objective to ensure that individuals are able to exercise control over information relating to themselves and the processing of such information.: EU & mS, NO, RS CH, FJ] [and stressing that the present Convention is intended to supplement those conventions: CH]

[17] Taking into account the existing international and regional conventions [and treaties: CARICOM, DO, DZ] on [criminal justice: AU] cooperation [in the: AU] [including on cybercrime: AU] [(penal field: AU, MX) fields covered by this Convention: MX] [criminal justice field: EU & mS, NO, DZ, RS] [criminal matters:



CARICOM, NO, DO], as well as similar treaties that exist between United Nations Member States, [as well as generating a synergistic effect with existing international cooperation frameworks that effectively prevent and combat cybercrime.]; JP; retain original – MY]

*Have agreed as follows:*

[...]

## Chapter IV International cooperation

### CLUSTER 1

#### *Article 56. General principles of international cooperation*

1. States Parties shall cooperate [to the fullest extent possible: ~~delete – CARICOM, IL, SY, TO, LI; retain – CO~~] [with each other: CARICOM, TO, FJ, SD] [within their means (or) to the best of their ability: TO] in accordance with the provisions of this ~~[chapter: EU & mS, MK, ME, AL, UA, MD, BH, GE, LI, IS, NO, IN] [Convention: EU & mS, MK, ME, AL, UA, MD, BH, GE, LI, IS, NO, AO, IN], [as well as: EG]~~ other [applicable: EG, IR, SD] [international instruments on international cooperation in criminal matters: ~~delete – CN, LI~~] [to which they are parties: CO, IN], and [~~agreements: – RU~~] (arrangements: RU, IR) based on the principle of reciprocity, ~~delete – JP~~ as well as domestic laws, [for the purpose of criminal investigations, prosecutions and judicial proceedings concerning criminal offences: EU & mS, MK, ME, AL, UA, MD, BH, GE, LI, IS] [for attaining the purposes of this Convention: CO] with a view to preventing, detecting, [disrupting: ~~delete – JP, RU, UK, DZ~~], [countering: DZ] [suppressing: RU] investigating, prosecuting and [adjudicating: ~~delete – JP, UK, TR~~] [offences established in accordance with this Convention: ~~delete – RU; retain: African Group, US, AM~~] [offences committed with the use of information and communications technologies: RU] and to collecting, [obtaining: ~~delete – JP, GE~~], preserving and [sharing: ~~delete – JP, GE~~] evidence in electronic form of [offences set forth in this Convention – ~~delete: EU & mS, MK, ME, AL, UA, MD, BH, GE, LI, IS, ZA, CR, PH, FJ; retain – MY, MX, ID, CH, PA, CO, VE, KE, SN, TR, PE~~] [any criminal offence: AR, KR, JP, BR, AZ, CO, CL, IR, UY, DZ, DO, AM, ER, AO, TO, MZ, SN, PS; ~~delete – CH~~] [any offence: RU] [serious crimes – ~~delete: EU & mS, MK, ME, AL, UA, MD, BH, GE, LI, IS, CO, SY, TZ; retain – CH, NG, US~~] [other criminal offences provided that those are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least four years: EU & mS, MK, ME, AL, UA, MD, BH, GE, LI, IS] [crimes for which cooperation is agreed upon by the domestic law of both requesting and requested States: CH].

[1. States Parties shall cooperate to the fullest extent possible in accordance with the provisions of this chapter, ~~other international instruments on international cooperation in criminal matters,~~ and agreements based on the principle of reciprocity, as well as domestic laws, with a view to preventing, detecting, disrupting, investigating, prosecuting and adjudicating offences established in accordance with this Convention and to collecting, obtaining, preserving and sharing evidence in electronic form of ~~[offences set forth in this Convention] [any criminal offence]~~ [serious crimes]: CN]

[1. States Parties shall cooperate to ~~the fullest extent possible~~ prevent in accordance with the provisions of this ~~chapter, other international instruments on international cooperation in criminal matters, and agreements based on the principle of reciprocity,~~ as well as domestic laws, with a view to Convention preventing, detecting, disrupting, investigating, prosecuting and adjudicating offences established in accordance with this Convention and to collecting, obtaining, preserving and sharing evidence in electronic form of [offences set forth in this Convention] [any criminal offence] [serious crimes]: YE]

[1. States Parties shall cooperate to the fullest extent possible in accordance with the provisions of this chapter, other international instruments on international cooperation in criminal matters, and agreements based on the principle of reciprocity, or on the basis of uniform or reciprocal legislation, as well as domestic laws, ~~with a view to for the purposes of~~ preventing, detecting, ~~disrupting~~, investigating, prosecuting and ~~adjudicating~~ offences established in accordance with this Convention and ~~to for~~ collecting, ~~obtaining~~, preserving and sharing evidence in electronic form of [offences set forth in this Convention] [any criminal offence] [serious crimes].: AU]

[1. States Parties shall cooperate to the fullest extent possible in accordance with the provisions of this chapter, other international instruments on international cooperation in criminal matters, and ~~agreements~~ arrangements based on the principle of reciprocity, as well as domestic laws, with a view to preventing, detecting, ~~disrupting~~, ~~repressing~~, investigating, prosecuting, ~~and~~ adjudicating and sanctioning the commission of offences established in accordance with this Convention and to collecting, obtaining, preserving and sharing evidence in electronic form of ~~[offences set forth in this Convention]~~ ~~[any criminal offence]~~ ~~[serious crimes]~~ crimes committed through the use of information and communications technologies: NI].

[1. States Parties shall cooperate to the fullest extent possible in accordance with the provisions of this chapter, other international instruments on international cooperation in criminal matters, and agreements based on the principle of reciprocity, as well as domestic laws, with a view to preventing, detecting, disrupting, investigating, prosecuting and adjudicating offences established in accordance with this Convention and to collecting, obtaining, preserving and sharing evidence in electronic form of ~~[offences set forth in this Convention]~~ ~~[any criminal offence]~~ ~~[serious crimes]~~.: HS]

[1. States Parties shall cooperate to the fullest extent possible in accordance with the provisions of this chapter, other international instruments on international cooperation in criminal matters, and agreements based on the principle of reciprocity, or on the basis of uniform or reciprocal legislation, as well as domestic laws, ~~with a view to for the purposes of~~ preventing, detecting, disrupting, investigating, prosecuting and adjudicating offences established in accordance with this Convention and to collecting, obtaining, preserving and sharing evidence in electronic form of ~~[offences set forth in this Convention]~~ ~~[any criminal offence]~~ ~~[serious crimes]~~.: AU]

[1 *alt.* States Parties shall cooperate in criminal matters in accordance with articles [on international cooperation] of this Convention.: US, CA]

[1 *alt.* States Parties shall cooperate with each other in accordance with the provisions of this chapter, other international instruments on international cooperation in criminal matters, as well as domestic laws, for the purposes of investigations and criminal proceedings concerning the offences established in accordance with this Convention.: NZ, FJ]

[1 *bis.* The cooperation described in para.1 of this Article shall not undermine the sovereignty and jurisdiction of relevant State Parties. If the requested State Party considers the cooperation request is likely to prejudice its sovereignty, security, public good or other essential interests, it may refuse to cooperate.: CN; against – US]

[2. States Parties shall [, where appropriate and consistent with their domestic legal systems: TH] (consider: delete – CO) (assisting: delete – RU) (providing mutual legal assistance to: RU, NI) (assist: CO) each other in (criminal: SY) investigations of [and proceedings in [criminal.: NI] civil and administrative matters relating to: TR] (the offences established in accordance with this Convention: delete – RU; retain: SY) (offences committed with the use of information and communication technologies: RU, NI), as appropriate and [as permitted by consistent with: HS] their domestic (legal systems legislation: RU).: delete paragraph – EU & mS, MK, ME, AL, UA, MD, BH, GE, LI, IS, MY, AR, NO, NG, AU, CO, MZ, IN, AU, JP; retain – BR, VU, CR, GT, DZ, DO, CO]



[2 alt. States Parties may utilize international cooperation mechanisms under this Convention in investigations of civil and administrative matters that arise out of the offences established in accordance with this Convention, as appropriate and as permitted by their domestic legal systems.: PH]

[2 bis. Each State Party shall take all necessary measures to avoid any actions and/or unilateral coercive measures that would affect international cooperation as well as the ability of State Party in their efforts to counter use of information and communications technologies for criminal purposes.: IR; against – EU & mS, US]

[3. In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of [whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as that of the requesting State Party (whether its laws place the offence within the same category of offence or denominate the offence by the same terminology as the requesting Party: SN) if the conduct (facts: PE) underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties.: delete paragraph – RU; retain – BR, DZ, AU, TO] [retain original: NZ]

[3 alt. Among the States parties, for the purpose of extradition and mutual legal assistance in criminal matters, including confiscation and recovery of property obtained by criminal means, neither offence referred to in articles 6 to 33 of this Convention shall be considered as a political offence, an offence associated with a political offence or a politically motivated offence. Accordingly, a request for extradition or legal assistance in criminal matters, including the search, seizure, confiscation and recovery of property obtained by criminal means, related to such offence shall not be rejected solely on the grounds that it relates to a political offence, an offence associated with a political offence or a politically motivated offence: RU; against – EU & mS, US, JP, AU]

[3 alt. States Parties may decline to render mutual legal 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.: ID]

[3 alt. In matters of international cooperation, if dual criminality is considered a requirement, it will still be fulfilled regardless of whether the –

\_\_\_\_\_ (a) laws of the requested State Party place the offence within the same category of offence; or

\_\_\_\_\_ (b) define the offence by the same terminology as that of the requesting State Party,

if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties.: NA;]

[3 bis. Neither offense referred to in articles 6 to 33 of this Convention shall be considered as a political offense, an offense associated with a political offense, or a politically motivated offense for the purpose of extradition and mutual legal assistance in criminal matters, including confiscation and recovery of property obtained by criminal means.: PK; against – AU, EU & mS, US, JP]

[4. The powers and procedures provided for in this chapter shall (also: EU & mS, MK, ME, AL, UA, MD, BH, GE, LI, IS, NZ, AU) be subject to [the conditions and safeguards provided for in article 42: delete – UK] [and article 14 of the International Covenant on Civil and Political Rights: CH, GE] [international human rights law: UK].: delete paragraph – African Group, CARICOM, MY, US, IR, CN, SY, PK, TH, UG, SD, SG; retain – EU & mS, MK, ME, AL, UA, MD, BH, GE, LI, NO, UK, NZ, AU, AM, CO, FJ]

[4 alt. Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to provide assistance 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, religion, nationality, ethnic origin(, indigenous status: NZ) or political opinions(, language, colour, sexual orientation, mental or physical disability: CA, GE; against – EG) or that compliance with the request would cause prejudice to that person's position for any one of these reasons.: US, CA, GE, EU & mS – merge into alt: CA]

[4 bis. State parties transferring personal information in accordance with this convention shall do so in compliance with their applicable laws related to mutual legal assistance and the transfer of personal information. State parties receiving personal information in accordance with this convention shall protect that information in accordance with the provisions of this convention and their respective laws concerning the protection of such personal information.: US, AM]

[4 ter. (a) State Parties that are requested to transfer personal information in accordance with this convention shall determine whether the information can be provided in compliance with their applicable laws, including relevant international obligations, concerning the transfer of personal information. In making that determination, State Parties may seek to impose conditions in accordance with article 61, paragraph 25.

(b) If the information is provided, a State Party receiving personal information pursuant to this convention shall protect that information in accordance with the provisions of this convention, any conditions imposed consistent with this convention, and its laws concerning the protection of such personal information. State Parties shall not be required to transfer personal information in accordance with this convention if it cannot be provided in compliance with their applicable laws, including relevant international obligations, concerning the transfer of personal information.: US]

[Article 56 alt. General principles of international cooperation

1. States Parties shall cooperate in criminal matters in accordance with the provisions of this chapter. Where appropriate and consistent with their domestic legal system, States Parties shall consider assisting each other in investigations of and proceedings in civil and administrative matters relating to the offences set forth in this Convention.

2. In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties.: SG, CA, NZ]

*Article 57. Protection of personal data*

[delete article – CARICOM, SG, IR, CN, US, AM]

1. Personal data transmitted from one State Party to another State Party on the basis of a request made in accordance with this Convention [and subject to domestic laws: EG] may be used by the State Party to which the data are transmitted only for the purposes of [~~criminal, administrative or civil proceedings and other judicial or (administrative procedures: TR): SN~~] [directly related to those proceedings: clarify – CH], as well as to prevent an imminent and serious threat to the (sovereignty of the State Party and: CM) [public: delete – PH] safety of those persons whose personal data are transmitted – delete: KR] [where it is deemed manifestly necessary for the protection of life, bodily or property interests of the data subjects or his or her legal party from imminent danger where the data subject or his or her legal representative is not in a position to express intention or prior consent cannot be obtained owing to

unknown addresses.: KR] [The requested State Party should not unreasonably delay or deny the request made by the requesting State Party: PH].

[1. Personal data transmitted from one State Party to another State Party on the basis of a request made in accordance with this Convention may be used by the State Party to which the data are transmitted only for ~~the purposes of criminal, administrative or civil proceedings and other judicial or administrative procedures directly related to those proceedings, investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence,~~ as well as to prevent an imminent and serious threat to the ~~public safety of those~~ persons whose personal data are transmitted.: AU]

[1 bis. The requested State Party shall provide only such personal data as are strictly necessary for the purposes of judicial proceedings in the requesting State Party in accordance with its domestic law, and it must be specified for what specify the purpose for which such data will be used.: NI]

2. [The requesting State Party shall inform the requested State Party(, if possible: CH) of the period for which the data are required. (~~Such period shall be consented to by the requested State Party.: PK): delete – JP, RU] The transferred [personal: RU, NI] data shall be kept for no longer than the period required for the purpose for which they have been [received: delete – RU] [requested: RU, NI] and shall be [returned to the requested State Party or: delete – SY, RU] deleted or destroyed at the end of the period specified. [(The requesting State Party shall inform [and obtain the consent of: PH] the requested State Party in advance, should it be necessary to keep the data in the requesting State Party for a longer period: delete – JP, NI, RU) (as well as the reasons for retention beyond the requested period: BF).: delete paragraph –KR, CO]~~

3. The States Parties shall take appropriate measures to ensure that the data transferred to [or from: YE] them are [kept confidential: RU, NI] [~~protected (as well as kept confidential: SY) from [accidental or unauthorized destruction, (depersonalization: KZ) accidental loss or unauthorized access, modification, collection: KZ) or dissemination]~~ [loss or accidental or unauthorized access, (disclosure, alteration: SN) or destruction: JP, AU].: RU – delete after confidential]

[3. The States Parties shall take appropriate measures to ensure that the data transferred to them are ~~protected from accidental or unauthorized destruction, accidental loss or unauthorized access, modification or dissemination~~ protected against loss or accidental or unauthorised access, disclosure, alteration or destruction.: AU]

[3 alt. The States Parties shall take appropriate measures to ensure that the data transferred to them are protected ~~from accidental or unauthorized destruction, accidental loss or unauthorized access, modification or dissemination.: PS]~~

[4. (States: BF) Parties shall keep a record [of the data transferred and their destruction (as well as data resent and destroyed at the end of the agreed period: BF)] [or have other appropriate means to demonstrate how an individual's personal data is accessed, used, disclosed or destroyed: AU].: delete paragraph – CH, CO]

5. Such personal data [~~may~~shall: DZ] not be shared with a third party [State or international organization: AU, FJ] without the prior written consent of the State Party that has transmitted the data [~~or of the person concerned: JP, EG, BF, IN].~~

6. A State Party transmitting personal data on the basis of a request made in accordance with this Convention may [~~require~~request: DZ] that the State Party to which the data have been transmitted provide information about their use[, information on how the data is destroyed, the appropriate steps taken to prevent or mitigate accidental or unauthorized destruction, accidental loss or unauthorized access, modification or dissemination, and such other data as may be relevant or necessary to determine how the shared information was handled by the requesting State Party.: PH].

[Article 57 alt. Protection of personal data]

1. State Parties shall ensure that:

(a) Personal data they receive from another State Party under this Convention are processed only: [It shall not further process the personal data for an incompatible purpose: JP]

(i) For the specific purposes of the criminal investigations, prosecutions or judicial proceedings for which the data were transmitted;

(ii) For other judicial procedures directly related to those proceedings;

(iii) To prevent an imminent and serious threat to public security.

(iv) For the exercise of the rights of the defence of an accused person, in accordance with the conditions of Article 61(17) and 64(2).

(b) The processing of the transmitted personal data for other purposes is subject to the prior consent of the State Party that transmitted them.

2. State Parties shall ensure that the personal data they seek and process are relevant to and not excessive in relation to the purposes for which they seek and process the data.

3. State Parties shall take reasonable steps to ensure that the personal data are maintained with such accuracy and completeness and are as up to date as is necessary and appropriate for the lawful processing of the personal data, having regard to the purposes for which they are processed.

4. State Parties shall provide for appropriate time limits to be established for the erasure of personal data or for a periodic review of the need for the storage of personal data in view of the purposes for which personal data were transferred. Procedural measures shall ensure that those time limits are observed. The data shall be kept for no longer than the period required for the purpose for which they were received and shall be returned to the transmitting State Party or deleted once the purpose is fulfilled, without prejudice to its retention for any additional purpose authorised by the transmitting State Party.

5. States Parties shall take appropriate measures to ensure that the data transmitted to them are protected from loss or accidental or unauthorized destruction, access, disclosure, or modification ("security incident"). Upon discovery of a security incident in which there is a significant risk of physical or non-physical harm to individuals or to the other Party, a State Party shall promptly take appropriate action to mitigate such harm and notify the State Party that transmitted the data.

6. (a) State Parties shall provide notice through the publication of general notices, or through personal notice to the persons whose personal data have been collected, on:

(i) The legal basis for and the purpose(s) of processing;

(ii) Any retention or review periods pursuant to paragraph 5, as applicable;

(iii) Recipients or categories of recipients to whom such data are disclosed; and

(iv) Access, rectification and redress available.

(b) State Parties may subject any personal notice requirement to proportionate restrictions permitted under their domestic legal frameworks, needed, at the time of adjudication, to protect the rights and freedoms of others or important objectives of general public interest and that give due regard to the legitimate interests of the person concerned.

€ The personal notice shall not be given if the State Party that transmitted the data has requested that the provision of the data be kept confidential pursuant to paragraph b.

7. State Parties shall keep a record of the data received, and their processing.

8. State Parties shall only process personal data revealing racial or ethnic origin, political opinions or religious or other beliefs, or trade union membership; genetic data; biometric data considered sensitive in view of the risks involved; or personal data concerning health or sexual life, under appropriate safeguards to prevent risks of unwarranted prejudicial impact to the persons concerned, including unlawful discrimination.

9. Decisions producing a significant adverse effect on the relevant interests of the person to whom the personal data relate may not be based solely on automated processing of personal data, unless authorised under domestic law and with appropriate safeguards that include the possibility to obtain human intervention.

10. (a) State Parties shall ensure that any person, whose personal data have been received under this Convention is entitled to seek and obtain, in accordance with the processes established in its domestic legal framework and without undue delay and (free of charge: JP):

(i) Access to his or her personal data the information listed in paragraph 6(a) above, subject to any applicable restriction pursuant to paragraph 6(b) and (c) (as well as information regarding available options for redress: JP).

(ii) Rectification when the data on the person are inaccurate or have been improperly processed, rectification shall include – as appropriate and reasonable considering the grounds for rectification and the particular context of processing – correction, supplementation, erasure or anonymisation, restriction of processing, or blocking.

(b) If access or rectification is denied or restricted, State Parties shall provide to the person concerned without undue delay a response informing that person of the denial or restriction. The response shall provide the grounds for such denial or restriction and provide information about available options for redress.

11. State Parties shall have in place effective judicial and non-judicial remedies to provide redress for violations of this article.

12. State Parties shall have in place one or more public authorities that exercise independent and effective oversight functions and powers with respect to the safeguards in this article. The functions and powers shall include investigation powers, the power to act upon complaints and the ability to take corrective action.

13. When an authority of a State Party provides personal data received initially under this Convention to another authority of that Party, that other authority shall process it in accordance with this article. Personal data received shall not be shared with a third State Party or international organisation without the prior (written: JP) authorisation of the State Party that transmitted the data.

(14. A State Party transmitting personal data on the basis of a request made in accordance with this Convention may require that the State Party to which the data have been transmitted provide information about their processing.: JP)

15. A State Party may suspend the transfer of personal data to another Party if it has substantial evidence that the other Party is in systematic or material breach of the terms of this article or that a material breach is imminent. Any personal data transferred prior to suspension shall continue to be treated in accordance with this Convention.: EU & mS, MK, ME, AL, UA, MD, BH, GE, LI, IS, NO; against – EG, CA, US, SG, CARICOM]

[Article 57 alt. Protection of personal data

1. A State Party shall transfer personal data pursuant to this Convention subject to the conditions of that Party's domestic and applicable international law. State Parties are encouraged to establish bilateral or multilateral arrangements to facilitate safe and effective transfers of personal data.
2. State Parties shall ensure that personal data obtained in accordance with this Convention are subject to effective safeguards in the Parties' respective legal frameworks, including that:
  - (a) personal data are processed lawfully and fairly;
  - (b) personal data are not processed for a purpose that is incompatible with the purpose for which it was transferred;
  - (c) processing is limited to what is relevant and not excessive in relation to the purpose for which the data are processed;
  - [ (d) appropriate measures are taken to ensure that personal data that are inaccurate are rectified, marked or erased;] [to ensure that personal data that are maintained with such accuracy as is necessary and appropriate for the lawful processing of the personal data, having regard to the purposes for which they are processed: JP]
  - (e) personal data are kept in identifiable form for no longer than is necessary and appropriate;
  - (f) [appropriate measures are taken to ensure that the data are protected from accidental or unauthorised destruction, accidental loss or unauthorised access, modification or dissemination; and] [appropriate measures are taken to ensure that the data are protected from loss or accidental or unauthorised access, disclosure, alteration or destruction: JP]
  - (g) natural persons whose data are transferred are granted enforceable rights, and effective redress.
3. State Parties may transfer personal data obtained in accordance with this Convention to another third country or international organisation only with the prior authorisation of the original transferring State Party.: UK; CA, SG – against: CARICOM]

## CLUSTER 2

### *Article 58. Extradition*

1. (a) 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 [by a (minimum: UK, PK, VN, MY) maximum (penalty of: EC) deprivation of liberty of at least one year; CARICOM, TZ, BR, CI, US, SG, CN, AU, CO, NO, SY, CF, EU & mS; retain – EC, PA, MX, AR, TH, TO] [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 provided that, at the moment of submission of the request, a period of at least six months of the sentence remains to be served: EU & mS, AR, US, GE, TO] [retain original: EG];
- [ (b) Where a different minimum penalty is to be applied under an arrangement agreed on the basis of [uniform or reciprocal legislation or: CO] an extradition treaty, applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply.: delete – CARICOM, RU, TZ, BR, AR, SG, CN, PK, NO, BF, TH, TO; retain – MY, EG]



[ (b bis) The requested State Party may refuse to extradite if when the penalty under the domestic law of the requesting State Party is the death penalty or the penalty is the death penalty.: NI; delete: EG, SG, JP]

[ (c ter) The requested State party shall not be obliged to extradite when, in its opinion, the offense is political or common related to them.: NI; delete: EG]

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.: delete – MY, NZ, TO] [and which does not contradict its internal constitutional framework: NI]

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.

4. Each of the offences to which this article applies [shall may: UK, TH, TO] 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.: UY, NI, TH] [A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be political offences.: JP, UY, RU, EU & mS, LI, AR, UK, CI, US, NZ, AU, PK, CA, UY, GE, NO, SY, NI, VU, TH, TO, SG; retain – CN, TR, RU, EG] [delete paragraph: CO, CH]

4 bis. States Parties whose laws so permit shall not, in the event that this Convention serves as a basis for extradition, consider any of the offences established in accordance with this Convention to be of a political nature.: UY; against - EU & mS, CA, US]

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 [as :LI] the legal basis for extradition [in respect of any offence to which this article applies: CO].

6. States Parties that make extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of their instrument of ratification, acceptance, 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 on extradition with other States Parties to this Convention; and

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

[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.: NA; retain – TO]

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 the extradition and: CARICOM, EU & mS, TZ, BR, US, SG, PK, TO, NO, CN] the grounds upon which the requested State Party may refuse extradition. [retain: EG, CH]

9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures [and to simplify evidentiary requirements relating thereto: EU & mS, CO, TO; retain: CN, CL] in respect of any offence to which this article applies. [delete paragraph: CH; retain – EG]

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, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings. [In case of urgency, the requesting State may transmit its request for the provisional arrest of the person through the International Criminal Police Organization.: EC, AR, PK, TR, SG; against – JP]

[ (bis) Subject to the provisions of its domestic law and extradition treaties, each State Party may, in case of urgency, provisionally arrest or take other appropriate measures to ensure the presence of a person present in its territory whose extradition has not yet been requested.: BF; against – CA]

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 he or she is one of its nationals, [shall may: UK, GE], [or because the requested State Party deems it has jurisdiction over the offence: TR] [upon submission of supporting documentation: UY] 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 decision and conduct their proceedings in the same manner as in the case [of any other offence (of a grave nature: delete – KZ)] [of any other offence of a comparable nature: EU & mS] 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.: EU & mS] [retain original – US, PK, CR, MY, TO]

[11 alt. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences to which this article applies and submit the case without undue delay to its competent authorities for the purpose of prosecution, in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him or her to another State Party pursuant to this article.: NZ; against - EU & mS]

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 requesting: NI] 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.

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: LI, PK, RU] Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting [State: PK, RU] Party, consider the enforcement of the sentence [that has been: LI] imposed under the domestic law of the requesting Party or the remainder thereof.

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 [relevant international treaties and: CM] the domestic law of the State Party in the territory of which that person is present. [The requested State may require other safeguards, in particular that the defendant will not be sentenced to death, that an already pronounced death penalty will not be carried out, or that he will not be subjected to treatment that will impair his physical integrity. Extradition or the transfer of proceedings and punishment of offences in another State may be denied if the requesting State fails to such and other specific guarantees of an adequate

protection for the requested State, if the safeguarding of the defendant interests so requires for the requesting or the requested State: CH; delete: EG, US, SG, JP]

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: EC, UK, CA, NO, GE) gender: EC, UK, AU, CA, NO, GE; against – EG, HS]~~ race, ~~[language: CARICOM, SG, TO; against – EG, MY]~~, religion, nationality, ethnic origin or political opinions, ~~[gender (identity: UK, NZ): AR, UK; against – EG, HS]~~ ~~[(sexual orientation: JP, UK, NZ, AU, CA, NO, GE) against – EG, HS]~~ (or other status: UK, AU, CA, NO, GE; against – EG), mental or physical disability: JP, UK, AU, NO, GE; against – EG] ~~[indigenous status: NZ, NO; against – EG]~~ or that compliance with the request would cause prejudice to that person's position for any one of these reasons, ~~[or if there are substantial grounds for believing that the person would be in danger of being subjected to (death penalty: EU & mS, LI, NZ, HS, NO, AU, CH; against – EG, JP, US) torture(, or inhuman or degrading treatment: EU & mS, LI, GE, NO, CM, CH; against – EG, US) (or extrajudicial executions: CM; against – EG), (or enforced disappearance, or where there is a serious risk that the person would be subjected to the death penalty: HS; against – EG) (life imprisonment without parole: NZ, NO, LI): delete last sentence – CARICOM, TZ, SG, PK, DZ, VN, IN, CN, EG, MY, TO, US]. [delete paragraph: MY, CF] [retain original: NA]~~

[move to Article 65: VU]

[15 bis: If a person who is subject of an extradition request, is being prosecuted, tried or is being punished in the requested State Party for committing an offence for which the extradition request was made, the requested extradition may be postponed until the prosecution, trial or punishment are completed.: IR – against: NZ, SG]

~~[16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.: CH; retain – TO]~~

17. Before refusing extradition, the requested State Party shall, where appropriate, [in accordance with its domestic law: UY] consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

[17 bis. The requested State Party may refuse extradition where such extradition may prejudice its sovereignty, security, public order or other essential public interests.: RU, SY, NI – delete: NZ, US]

[17 ter. If a State Party refuses a request for extradition based on lack of information, guarantees, or technical grounds, the requested State party may allow the requesting State party to resubmit the request for extradition as a one-time measure, provided that the reasons for the objection have been addressed by the requesting State Party.: PK – delete: NZ, US]

18. The requested State Party shall inform the requesting State Party of its decision with regard to the extradition. [Reasons shall be given for any refusal of extradition.: African Group]

19. Each 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 ~~[each-an: RU]~~ [one central: PK] authority responsible for making or receiving requests for extradition or [in the absence of a treaty: UK] ~~[provisional arrest: RU]~~. The Secretary-General of the United Nations shall set up and keep updated a register of authorities so designated by the Parties. Each Party shall ensure that the details held on the register are correct.

20. States Parties ~~[shall may: UK, TO]~~ seek to conclude bilateral and multilateral agreements or arrangements to carry out or enhance the effectiveness of extradition. [For that purpose, such agreements or arrangements may include transmission of requests for extradition and any communication related thereto through diplomatic

channels directly between the ministries of justice or any other authorities designated by the Parties and, whenever possible, through the International Criminal Police Organization.: IR] [Such agreements may include transmission of requests for extradition and sharing of related information through diplomatic channels or using secure means of communication between the central authorities of the State Parties.: PK]

[Article 58 bis. Expedited extradition]

At any stage of the process, the requested person may give his consent to be extradited before the competent authorities of the requested State Party. That Party shall take a decision promptly and surrender the person within the term established to this effect. The consent must be free, explicit and voluntary, and the person sought should be notified about his rights and the consequences of his decision. Once extradition is granted, the consent is irrevocable.: AR; against - EU & mS, CA, US]

[Article 58 ter. Temporary surrender]

Once the extradition is granted and in the case that the person sought is serving a prison sentence or is being prosecuted in the requested State, the requesting Party may request for his temporary surrender. The requested person may be temporary surrendered for his trial under de condition he must be returned under the conditions and within the term agreed by both States Parties.: AR; against - EU & mS, CA, US]

[Article 58 quater. Surrender of property]

1. When extradition was granted and at the request of the requesting State Party, all property found in the requested State that has been acquired as a result of the offence or that may be required as evidence shall be surrendered to the extent permitted under the law of the requested State and subject to the rights of third parties, which shall be duly respected.

2. If the requesting State so requests, the said property may be surrendered to the requesting State even if the granted extradition cannot be carried out.

3. When the said property is liable to seizure or confiscation in the requested State, it may retain it or temporarily hand it over.

4. Where the law of the requested State or the protection of the rights of third parties so requires, any property surrendered shall be returned to the requested State free of charge after the completion of the proceedings, if that State so requests.: AR; against - EU & mS, CA, US]

[Article 58 quinquies. Non bis in idem]

1. Extradition shall not be granted if a final judgment has been passed by the competent authorities of the requested State Party on the person sought in respect of the offence for which extradition is requested. Extradition may be refused if the competent authorities of the requested State Party have decided either not to prosecute or to terminate proceedings in respect of the same offence.

2. The extradition of a person against whom a final judgment has been rendered in a third State that is party to the Convention for the offence in respect of which the extradition is sought, shall not be granted:

(a) If the aforementioned judgment resulted in that person's acquittal;

(b) If the term of imprisonment or other measure to which the person was sentenced:

(i) Has been enforced in whole;

(ii) Has been wholly, or with respect to the part not enforced, the subject of a pardon or an amnesty;

- € If the court convicted the offender without imposing a sanction.
3. However, in the cases referred to in paragraph 2, extradition may be granted:
- (a) If the offence in respect of which the judgment has been rendered was committed against a person, an institution or any person who is a public official in the requesting State;
- (b) If the person on whom judgment has been passed is a public official in the requesting State;
- € If the offence in respect of which judgment has been passed was committed in whole or in part in the territory of the requesting State or in a place treated as its territory.
4. The provisions of paragraphs 2 and 3 shall not prevent the application of broader domestic provisions relating to the effect of non bis in idem in relation to foreign criminal judgments.: RU, VE; against - EU & mS, CA, NZ, US]

### CLUSTER 3

#### *Article 59. Transfer of sentenced persons*

[delete – EU & mS, MY, JP, SG; retain – GH, NI, AR, UK, CI, NZ, KR, CO, PK, GE, CR, EG, CF, HS]

States Parties [~~may~~ shall: AR; CO] [, if its domestic law so permit: DZ] consider [, in accordance with their domestic law: SY] entering into [general or specific: UY] bilateral or multilateral agreements or arrangements on the transfer to their territory of [~~persons—their nationals: UK~~ (their own nationals: UK)] sentenced to imprisonment or other forms of deprivation of liberty for offences established [~~under~~ in accordance with: AU] this Convention [in a State other than that of their nationality: UK], in order that they may complete their sentences there [, taking into consideration the rights of sentenced persons and issues relating to consent, rehabilitation and reintegration: NG, GH, CI, PK, ZA, GH, NA] [and raise awareness among these prisoners about the availability of such measures: PK].

#### *Article 60. Transfer of criminal proceedings*

[delete – MY, JP, SG; retain – GH, UK, NZ, KR, CO, PK, GE, CR, EG, CF, HS, TO]  
[move before art. 59: RU, PK]

States Parties [~~shall~~ may: UK, AU, GE, DZ, SG; retain: CO] [, if its domestic law so permits.: DZ] consider the possibility of transferring to one another proceedings for the criminal prosecution of an offence established in accordance with this Convention where such 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 [harmonizing and: BF] concentrating the prosecution [, or in the interest of social reintegration of the accused person: CH].

[bis If a State Party that makes 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 itself in respect of any offence to which this article applies.: EU & mS]

### CLUSTER 4

#### *Article 61. General principles and procedures relating to mutual legal assistance*

1. States Parties shall afford one another [~~the widest measure: PS~~] of mutual legal assistance in [criminal: EU & mS] investigations, prosecutions and [~~other-judicial: EU & mS, EG, CARICOM, LI, CN, CH, ID, GH, IN, GE, KR, NZ, CA, PS, SY, AM, UK, GT, TO, SG~~] [other criminal: JP] [or criminal: KR] proceedings in relation to the

~~[criminal: RU] offences [established under this Convention committed with the use of information and communications technologies: RU, NI], and for the purposes of the collection [and sharing: IN] [and securing: NI] of evidence in electronic form of [offences set forth in this Convention: EG, MX, ID, US, MY, TR, NG, IR, NZ, CA, SY, CN, ZA, NA, CR, SG] [any criminal offence: RU, JP, CARICOM, BR, AR, TR, KR, AU, DZ, AM, CV, NI, TO] [serious crimes: NO, JP, CN, US, GE, TD, NG, CN] [serious crimes in addition to the offences established under this convention: CN] [offences provided that those are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least four years: EU & mS].~~

2. Mutual legal assistance shall be afforded to the ~~[fullest extent possible based on the Convention and applicable domestic law: PK] [under relevant laws, treaties, agreements and arrangements in accordance with this Convention, applicable domestic law: RU, NI]~~ of the requested State Party with respect to ~~[criminal: EU & mS]~~ investigations, prosecutions ~~[and: RU] [(other: EU & mS, RU,)]~~ judicial: EU & mS, EG, CARICOM, LI, CN, CH, ID, GH, IN, GE, KR, NZ, CA, PS, SY, UK, SG] ~~[other criminal: JP]~~ proceedings ~~[including those: RU, NI]~~ in relation to the offences for which a legal person may be held liable in accordance with article 35 of this Convention in the requesting State Party.

~~[— 3. — The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance: RU, JP, CARICOM, YE, AR, CN, CI, IN, KR, PK, UK, NI, TO, SG; retain: CV, CA]~~

4. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes [with respect to the scope of application of this article established in paragraph 1]:

(a) Taking ~~[evidence testimony: DZ]~~ or statements from ~~[accused: AR]~~ persons ~~[, including representatives of legal persons: EU & mS, PY, LI, US, PS, DZ, JP] [retain original: MO];~~

(b) Effecting service of ~~[judicial: RU, IR, SY]~~ documents;

(c) Executing searches and ~~[seizures: NI]~~, and freezing ~~[assets: JP, CA, PS]~~ ~~[information content: YE] [and confiscating proceeds of crime: CA] [and confiscation: PS, DZ] [in accordance with the conditions and procedures provided for by the domestic law of the requested State Party: ZA];~~

~~[— (c alt) — : PA]~~

~~[— (c alt) — Executing search and seizures, freezing assets and collecting relevant evidence: CN]~~

~~[— (d) — Searching or similarly accessing, seizing or similarly securing, (and: RU) disclosing [data] [information] stored by means of (a computer system: an information and communications technology system/device: RU, NA) located within the territory of the requested State Party, including [data that have] [information that has] been preserved pursuant to article 68 (in accordance with the conditions and procedures provided for by the domestic law of the requested State Party: ZA); JP, KR, SY] [respecting the sovereignty of the state party and domestic law: NI]~~

~~[— (e) — Collecting real time traffic [data] [information] associated with specified communications in the territory of the requested State Party, governed by the conditions and procedures provided for under that State Party's domestic law, with respect to (criminal: RU) offences for which the real time collection of traffic [data] [information] would be available in a similar domestic case of the requested State Party; : EU & mS, JP, LI; SG, CH, MY, GE, KR, NO; retain: EG, GH]~~

~~[— (f) — Collecting or recording content [data] [information] of specified communications transmitted by means of (a computer system an information and communications technologies system/device: RU), to the extent permitted under the~~



~~States Parties' (applicable treaties: PK, SY, IR) and domestic laws; EU & mS, JP, LI; SG, CH, MY, GE, KR, , NO; retain: EG, GH, PK]~~

(g) Examining objects, ~~[computer data] [electronic/digital information]; US, UK]~~, and sites;

(h) Providing information, ~~[evidentiary items—evidence: RU]~~ and expert evaluations;

~~[(i) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records; MO] [where so permitted under domestic law: CR]~~

(j) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;

~~[(j alt) Executing forfeiture or confiscated proceed of crime, property, instrumentalities of other things for recovery purposes: ID, against – CA]~~

(k) Facilitating the voluntary appearance of persons in the requesting State Party;

(l) ~~[Recovering (Return: KZ) assets]~~ The recovery of assets in accordance with (relevant provisions on asset recovery) of this Convention: SG, AU, UK]; [delete subparagraph: CH, US, KR, CA]

(m) Any other type of assistance that is not contrary to the domestic law of the requested State Party.

~~[(n) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of (Chapter on asset recovery) of this Convention: SG, US]~~

5. Paragraphs 6 to 28 ~~[of this Article: AU]~~ shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of 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 6 to 28 of this article in lieu thereof. States Parties are ~~[strongly: NI]~~ encouraged to apply the provisions of those paragraphs if they facilitate cooperation.

~~[6.— States Parties may decline to render (mutual legal: UK) assistance pursuant to this article and articles 62 to 74 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.: IL, LI) [and special consideration may be given when the conduct affects only nationals of the requesting State Party: CN] (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.: TR, AR, IR): RU, IN, PK, NI] [delete paragraph: NI, PY] [retain original: CA]~~

7. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for ~~[criminal: EU & mS]~~ investigations, prosecutions or ~~[other judicial: EU & mS, EG, CARICOM, LI, CN, CH, ID, GH, IN, GE, KR, NZ, CA, PS, SY, RU, SG]~~ ~~[other criminal: JP]~~ proceedings in relation to offences established under this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

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

~~[(b bis) 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 one another to determine the terms and conditions under which the request will be executed, as well as whether, under the circumstances, the request can be executed and, if so, the manner in which the costs shall be borne.: CO; against – CA]

8. For the purposes of paragraph 7 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 he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.] [The period of detention in the State Party to which the person was transferred shall be counted as part of the sentence being served in the State Party from which the person was transferred: RU, NI]

[ (d bis) The State Party to which the person has been transferred shall regularly inform the State Party from which the person has been transferred about the situation of the detained person and establish a reliable and regular channel of communication between the two parties and the incarcerated person.: BF; against – CA, US]

9. Unless the State Party from which a person is to be transferred in accordance with paragraphs 7 and 8 of this article so agrees, that person, whatever ~~[his or her the person's: AU]~~ nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

10. (a) Each State Party shall designate a central authority ~~[that shall have the responsibility and power to which is responsible to: RU] [send and: AR] [or authorities: UK]~~ 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;

[ (a bis) Each Party shall designate a central authority or authorities responsible for sending requests for mutual legal assistance.: EU & mS, PY CA]

(b) Central authorities shall ensure the ~~[speedy timely: UK; retain original: SG]~~ 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]~~ in accordance with this paragraph: EU & mS, PY] at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention;

~~[(d) The Secretary-General of the United Nations shall set up and keep updated a register of central authorities designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times;: CI]~~

[merge subparagraph: (c) and (d): GT]

(e) Requests for mutual legal assistance and any ~~[communication—; information: RU, PK]~~ related thereto shall be transmitted ~~[to between: RU]~~ the central authorities ~~[designated by of: RU]~~ the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and ~~[communications information: RU, PK]~~ be addressed to it through diplomatic channels ~~[and in urgent circumstances, where the State Parties agree, through the International Criminal Police Organization: EU & mS, NO, EG, CARICOM, GH, US, GE, PK, SY, UK, TO, PY].~~ ~~[delete par.: CI]~~

11. Requests shall be made in writing ~~[or, where possible, by any means capable of producing a written record,—; TR]~~ [or electronic form: PK] ~~[in a language acceptable: PK]~~ to the requested State Party, under conditions allowing that State Party to establish authenticity. [In this regard, States are encouraged to introduce one of the United Nations' official languages as an acceptable language.: IR] 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 [or if necessary thereafter: EU & mS, US, NO, PY]. ~~[In urgent circumstances and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.: TR, CA]~~

[11 alt. The request shall be made in writing or electronic form by any means capable of submitting the request urgently and securely to the requested state parties, under conditions. 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.: PK – against: NZ, US]

12. Where not prohibited by their respective laws, ~~[States Parties Central Authorities: AU]~~ are ~~[encouraged to may also: RU, SY]~~ ~~[direct central authorities to: AU]~~ transmit and receive ~~[requests for mutual legal assistance, and (communications information: RU, PK, SY) related thereto,~~ in electronic form. ~~[Where acceptable to the central authorities of both States Parties involved, central authorities (are also encouraged may: RU, SY) to transmit and receive (electronic evidence in electronic form: JP, BR, UK):~~ Under conditions allowing the requested State Party to establish authenticity and ensuring the security of communications.: EU & mS, NO, UK, TO, PY]

[12. Where not prohibited by their respective laws, States Parties are encouraged to direct central authorities to transmit and receive requests for mutual legal assistance, and communications related thereto, in electronic form. ~~Where acceptable to the central authorities of both States Parties involved, central authorities are also encouraged to transmit and receive electronic evidence.: PK, NZ, CA]~~

[13. ~~Where (a prior agreement exists between: mutually acceptable to: CN) (central authorities of: DZ) two States Parties, any documents or other materials transmitted between them in accordance with this Convention (shall be exempted from the requirement for certification or authentication is exempt from the requirement of certification or authentication only where the prior agreement makes provision for the process of authentication: NA):~~ delete paragraph: CARICOM, US, IN, AU, NG, PS, SY, AM, CA]

[13 alt. Any documents or other materials transmitted pursuant to this Convention which are attested by the signature or seal of a competent authority or the central authority of the requesting State Party shall be accepted by the requested State Party without authentication or any other form of certification. At the request of the requesting State Party, the documents or other materials transmitted pursuant to this Convention may be certified by the requested State Party in another form indicated in the request to the extent not contrary to the domestic laws of the requested State Party.: JP, UG, CA]

[13 alt. In accordance with national legislation, authentication or certification of documentation may be requested.: CO; against – CA]

14. 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 [criminal: EU & mS] investigation, prosecution or ~~[other-judicial: EU & mS, RU, MO, CARICOM, EG, SG]~~ [other criminal: JP] proceeding to which the request relates and the name ~~[and functions: RU]~~ of the authority conducting the [criminal: EU & mS] investigation, prosecution or ~~[other-judicial: EU & mS, RU, CARICOM, CN]~~ [other criminal: JP] proceeding;

(c) A summary of the ~~[relevant facts, except in relation to requests for the purpose of service of judicial documents]~~ circumstances of the offence in respect of which the examination, investigation, prosecution or judicial proceeding is being conducted: RU, NI;

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

(e) [Data identifying the persons who are the subject of a crime report, investigation, prosecution or proceeding: RU, NI] Where ~~[possible]~~ appropriate: US, NZ, ~~[the identity, their: RU, NI]~~ location and nationality ~~[of any person, item: RU, NI]~~–or ~~[accounts: JP]~~ [as well as items: RU] concerned [, period of interest and timestamps (and time zone: UK) of internet protocol address: EU & mS, UK, PY]; and

[ (e alt) Where possible, their identity including photo identity, aliases, location, and nationality of any person, banking and other accounts, as well as any other relevant information: PK; against – CA, US]

[ (e bis) The preferred deadline for execution of the request desired by the requesting State Party: RU; against – CA]

(f) The purpose for which the evidence, information or other assistance is sought [and its relevance for the investigation: EU & mS, US, PY] [as well as, if possible, any other information that may be useful to the requested State Party in executing the request: RU, NI; against – US] [where possible, the requested State Party shall provide any other information that may be useful in executing the request: PK; against – US].

[ (f bis) The standards, norms, or protocols to be used to receive, retain custody of or transmit digital evidence.: MX; against – CA]

[ (f ter) Personal data or indicative information leading to the individualization of a person may be included in the application.: CO; against – CA]

[ (f ter) The time period within which mutual legal assistance must be obtained should be included.: CO]

[ (f quinquies) The level of importance or speed required.: SY; against – CA]

15. 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.

16. 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]~~ At the request of the requesting State Party, the requested State Party shall provide legal assistance in the form and according to the special procedures specified in the request, to the extent not contrary to the law of the requested State Party: RU, NI; against – EU & mS, JP].

17. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for [criminal: EU & mS] investigations,

prosecutions or ~~[other judicial: EU & mS, EG, CARICOM, LI, CN, CH, ID, GH, IN, GE, KR, NZ, CA, PS, SY, PY]~~ ~~[other criminal: JP]~~ proceedings other than those stated in the request without the prior consent of the requested State Party. ~~[Nothing in this paragraph shall prevent the~~ However, consent shall not be required where the fundamental legal principles of the: EU & mS] requesting State Party ~~[from disclosing require that it discloses: EU & mS]~~ in its ~~[criminal: EU & mS]~~ proceedings information or evidence ~~[that is exculpatory to]~~ to protect the rights of: EU & mS] 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.

[17. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or ~~[other judicial: RU, CN]~~ 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~~ prior consent is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.: RU; against – CA]

18. 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.

[18 alt. The requesting State Party may request the requested State Party to ensure the confidentiality of the fact and substance of any request submitted in accordance with the provisions of this chapter, but only insofar as it is consistent with the execution of the request. If the requested State Party cannot comply with the request for confidentiality, it shall promptly notify the requesting State Party thereof; the requesting State Party shall then decide whether the request should still be executed.: RU, NI; against – US]

[18 bis. Wherever possible and consistent with domestic law, when an individual is in the territory of a State Party and has to be heard as a witness 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 video conference 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: AU, CA, NZ, FJ; against – US]

19. Mutual legal assistance may be refused:

[delete paragraph: CN, CI, SY]

(a) If the [execution of: RU] request ~~[is not made in conformity with the provisions of this article]~~ is contrary to the provisions of this Convention and the domestic law of the requested State Party: RU; against - EU & mS];

(b)

(i) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests [including the protection of human rights and fundamental freedoms: EU & mS, NO, LI, GE, NZ, PY; delete: US, EG, CR, SG, CARICOM];

[(ii) If there are substantial grounds for a requested State Party to believe that the execution of the request would put the person or persons affected by the request in danger of being subjected to the death penalty, a life sentence without

the possibility of parole, torture, or inhuman or degrading treatment or punishment.: EU & mS, LI, GE, PY; delete: US, EG, SG, CARICOM]

[ (iii) If the request concerns an offence which the requested State Party considers a political offence or ~~(an offence connected with a political offence:~~ SG);: EU & mS, NO, LI, GH, US, GE, UK, NZ, PY; delete: EG, SG, CARICOM]

(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 [criminal: EU & mS] investigation, prosecution or ~~[other~~ judicial: EU & mS, EG, CARICOM, LI, CN, CH, ID, GH, IN, GE, KR, NZ, CA, PS, SY] ~~[other criminal: JP]~~ proceedings under their own jurisdiction; ~~[delete subparagraph: RU, AR]~~

[ (c bis) If the requested State Party considers that the execution of the request is beyond its operational capacity, so long as the requested State Party can clearly articulate to the requesting State Party the specific lack of capacity: VU, TO]

~~[—(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.: RU; retain – CH, AR]~~

[ (d bis) If the request for mutual legal assistance is disproportionate to the offence under investigation or prosecution.: US, GE]

[ (d ter) the offence is regarded as being of a political nature.: PK]

[ (d quater) there are substantial grounds for believing that the requests for assistance have been made to prosecute a person on account of that person's race, sex, religion, nationality, ethnic origin, or political opinions, or that person's position may be prejudiced for any of those reasons: PK]

~~[20. 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.: CH, MO; against – CA]~~

~~[21. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy[, in accordance with domestic law: CR].: CH, MO, SY; against – CA]~~

22. Reasons shall be given for any refusal of mutual legal assistance.

23. 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: RU]~~ requests by the requesting State Party on the [status and: JP] progress of its handling of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

24. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing [criminal: EU & mS] investigation, prosecution or ~~[(other: EU & mS, RU)~~ judicial: EU & mS, EG, CARICOM, LI, CN, CH, ID, GH, IN, GE, KR, NZ, CA, PS, SY, RU] ~~[other criminal: JP]~~ proceeding [conducted by its competent authorities: RU]. ~~[delete paragraph: IN]~~

25. Before refusing a request pursuant to paragraph 19 of this article or postponing its execution pursuant to paragraph 24 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.

26. Without prejudice to the application of paragraph 9 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~~ criminal: EU & mS] investigation or



prosecution [for judicial proceeding: EU & mS, EG, CARICOM] in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her 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 he or she has been officially informed that his or her presence is no longer required by the [competent judicial: CARICOM] authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will. [delete paragraph: SY]

[27. 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 one another: CARICOM) to determine the terms and conditions under which the request will be executed, as well as (whether, under the circumstances, the request can be executed: CARICOM) and, if so, the manner in which the costs shall be borne.: RU, JP, CN, NA, KR, PK, DZ, NA, NI; against retain – CA, NZ]

[28. 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.: RU, PK, SY; retain – CA, NZ]

[29. 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.: PK; retain – CA]

*Article 62. Conducting [examinations: IN] [(interrogations: TO)-hearings: RU, PK, EG, NI] [Obtaining evidence: UK] and other procedural actions using [advanced technologies including: IR] video or [telephone: TO] conferencing systems [or other virtual communication media: EC] [Conducting hearings using video or telephone conferencing systems: SG] [Taking of Statements of Evidence from Persons: CA] [Conducting hearings using video conferencing systems: GE]*

[retain original: NO, MY, EU & mS] [align with UNTOC/UNCAC: JP] [move to 61: GH, AU, CA, UK]

1. Competent authorities of States Parties [may enter into an agreement to shall: RU] provide [mutual legal: TO] assistance [consisting in conducting hearings and other procedural measures: RU] through the use of [advanced technologies, including: IR] video [or telephone: TO] conferencing systems, [or other appropriate computer means: TD] as permitted by the legislation of the requested State Party, when an individual is [present: RU] in the territory of [a-that: RU] State Party and has to be heard as a [suspect, (accused: AR, RU, PK, IR), victim.: RU, PK] [accused person, convicted or: IR] witness or expert by the [judicial competent: RU, KZ] [or police: IN] authorities of another State Party. [The requested State Party may permit the hearing to take place by [videokonference-video or (telephone: US, GE, TO) conferencing systems: RU, NI] if it is not [possible or desirable for the individual in question to appear in person in the territory of the requesting State Party: CA] [, subject to the consent of the individual in question: SG] delete last sentence: CA, UK].

[1 bis. Where the requested Party chooses to authorize the hearing of a person under investigation, it may require particular conditions and safeguards with respect to the taking of a statement by such person or the service or application of procedural measures.: CO, PE]

2. States Parties may [subject to their respective domestic laws: TH] agree that the hearing [or other procedural actions : RU] shall be conducted by a [judicial competent: TD] authority of the requesting State Party [in accordance with its domestic law: RU] and attended by a [judicial-competent: RU, KZ] authority of the requested State Party [and that the latter shall ensure that the identity of the person being questioned is established and that the (fundamental principles of the law of the requested State Party are respected, if necessary using the assistance of/involving an interpreter RU,)NI] [and any other authority as may be determined by the requested State Party: SG] [delete: IN].

3. If the requested State Party does not have access to the technical means necessary for holding a [videoconference video or (telephone: GE, TO) conferencing systems: RU], such means may be provided by the requesting State Party, upon mutual agreement.

*Article 63. Electronic [secure: EC] database on mutual legal assistance requests*

[delete: EU & mS, RU, NO, LI, CH, ID, US, GE, KR, NG, DZ, CO, NI; retain: GH, MY, SY,]

Each State Party [at its own discretion: AM] [shall-may: CARICOM, TO] consider maintaining electronic databases [in an affordable manner: KR] that facilitate access to statistics relating to incoming and outgoing requests for mutual legal assistance involving electronic evidence [under this Convention: CA], to ensure that reviews of efficiency and effectiveness are in place. [The Secretariat or any third party can access the database only if both the requesting State Party and the requested State Party agree: KR]

*[Article 63 bis. Establishing secure platforms and channels of communications*

For the purpose of effectively ensuring the admissibility of evidence collected in accordance with this Convention, States Parties are encouraged to consider establishing among them secure platforms and channels of communications that provide authentication and certification of requests for legal assistance and evidence transmitted solely in digital form, and when necessary, mutual recognition of electronic signatures, seals or stamps affixed to such requests and evidence, where appropriate, incorporating the said platforms and channels into 24/7 contact points.: RU; against - EU & mS, CA, US]

*Article 64. Spontaneous information*

[merge with art. 83: EG] [move to cluster 1: ID] [retain: MY] [delete: PS]

1. A State Party may, within the limits of its domestic law and without prior request, forward to another State Party information [including information on property derived from the commission of an offence covered by this Convention: EG] obtained within the framework of its own investigations when it considers that the disclosure of such information might [assist the receiving State Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention-facilitate the fulfilment of the purposes of this Convention and/: RU, NI] or might lead to a request for [cooperation-legal or law enforcement assistance: RU] by that State Party under this chapter.

2. Prior to providing such information, the providing State Party may request that the information it intends to provide be kept confidential or only be used by the receiving State subject to conditions. If the receiving State Party cannot comply with

such request, it shall notify the providing State Party, which shall then determine whether the information should nevertheless be provided. If the receiving State Party accepts the information subject to the conditions, it shall be bound by them. ~~[A request for confidentiality shall not prevent the receiving State Party from disclosing information in its criminal proceedings [that is exculpatory to protect the rights of an accused person: EU & mS, PY] an accused person.:IL]~~ 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.:LI]

[2 alt. Before providing such information, the State Party concerned may require that the confidentiality of the information be maintained or certain conditions for its use be met. If the receiving State Party is not in a position to accede to such a request, it shall notify the providing State Party, which will decide whether the information should still be provided. If the receiving State Party accepts the information under the above-mentioned conditions, those conditions shall be binding for that State Party.: RU, NI; against – US]

[2 bis. For the purpose of sharing information, the State Parties shall:

(a) Each State Party shall establish secure platforms or means of information exchange for transmitting information between their central competent authorities, including the use of regional and international secure international policing platforms;

(b) The conditions for the exchange of information shall be set up by the sending State Party according to its domestic law;

(c) If the receiving State Party conforms with the conditions of information exchange, such conditions shall be binding for that State Party;

(d) The exchanged information shall be subjected to confidentiality and nondisclosure without the consent of the sending State.: PK; against - EU & mS, CA, US]

~~[3. The transmission of information pursuant to this article shall be without prejudice to inquiries and criminal proceedings in the State Party providing the information.: LI]~~

[4. The transmission of information pursuant to this article shall take place through the designated central authorities.: AR; against – CA]

[Article 64 alt. Spontaneous information]

1. 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.

2. The transmission of information pursuant to paragraph 1 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.: BR, US; against – CA]

*Article 65. Powers of diplomatic missions and consular offices*

[delete – SN, UY, EU & mS, PE, NO, EG, JP, IL, MX, YE, SG, TR, CH, AR, CI, US, MY, GE, AU, KR, PK, BR, NG, KE, PA, NZ, CA, PS, DZ, CARICOM, CO, SY, ZA, AM, CR, CL, CV, UK, GT, TO, UG]

1. States Parties shall have the right to serve documents on their own citizens through their diplomatic missions or consular offices.

~~[2. States Parties shall have the right, under instructions from their competent authorities, to interrogate their own citizens through their diplomatic missions or consular offices, including through the use of video or telephone conferencing systems.: IR, CN, PY]~~

~~[3. In the situations referred to in paragraphs 1 and 2 of this article, no means of coercion or threat thereof may be used.: IR, CN]~~

[Article 65 alt. Powers of diplomatic missions and consular posts]

1. Authorized officials of diplomatic missions and consular posts of a State Party shall have the right to serve judicial and extrajudicial documents on the nationals of the sending State Party.

2. Authorized officials of diplomatic missions and consular posts of a State Party shall have the right to take testimony of nationals of the sending State Party, including through the use of video or telephone conferencing systems.

3. In the cases referred to in paragraphs 1 and 2 of this article, no means of coercion or threat thereof shall be used.: RU reserved, NI; against - EU & mS, CA, NZ, US]

[Article 65 alt. Powers of diplomatic missions and consular posts]

Authorized officials of diplomatic missions and consular posts of a State Party shall have the right to:

(a) Serve judicial and extrajudicial documents on the nationals of the sending State Party, in accordance with the laws and regulations of the receiving State Party.

(b) Transmit juridical and extrajudicial documents of the receiving state through the use of diplomatic channels The receiving State Party shall assist representatives of requested State Party in fulfilling the duties mentioned in this article.: PK; against - EU & mS, CA, NZ, US]

*Article 66. Emergency mutual legal assistance*

[delete – EU & mS, NO, MY, AU, NZ, VU, U, CA]

1. For the purposes of this article, an emergency means a situation involving a substantial and imminent risk to the life or safety of any [individual natural or legal person: BF] [natural person: CARICOM] [and the safety and security of the State Party: EG, NI] [as well as substantial and imminent risk to public security and other essential public interests: CN] [or critical infrastructure: IN, DZ] [or a situation that the requesting State Party deems to be an emergency and that is duly justified to the requested State Party: CO].

[move to Article 2: CARICOM]

2. Each State Party may request mutual [legal: AR] assistance from another State Party within the [shortest possible time]immediately: PK] if it believes that an emergency exists. A request made in accordance with this article should include, inter alia, a description of the facts showing that an emergency exists and its relevance to the assistance requested.

[2. alt Each State Party may seek mutual assistance on a rapidly expedited basis where it is of the view that an emergency exists. A request under this Article shall include, in addition to the other contents required, a description of the facts that demonstrate

that there is an emergency and how the assistance sought relates to it: CARICOM, CO]

3. The requested State Party ~~[shall may: DZ]~~ accept such a request in electronic form. However, it may request that an appropriate level of security and authentication be ensured before accepting the request [including the use of encryption, where necessary: CH] [However, it may require appropriate levels of security and authentication before accepting the request: CARICOM].

4. The requested State Party may [seek, (within the shortest possible time on a rapidly expedited basis: JP) CARICOM], request additional information to assess the request. The requesting State Party shall provide such additional information ~~[as promptly as possible]~~ immediately: RU].

[4 alt. In case, additional information is required by the requested state to assess the request, the requesting state party shall immediately provide such additional information.: PK]

[4 bis The requested State Party may seek, on a rapidly expedited basis, supplemental information in order to evaluate the request. The requesting State Party shall provide such supplemental information on a rapidly expedited basis.: CARICOM, CO]

5. The requested State Party, upon being satisfied that an emergency exists and other requirements for mutual assistance have been met, shall respond to the request ~~[as promptly as possible]~~ immediately: PK].

6. Each State Party shall ensure that an official ~~[of its from its: CARICOM] [central competent: RU, GH, EC] authority [or (other competent: African Group) authorities (who is: CARICOM) responsible for responding to requests for mutual assistance under article [61] [on mutual legal assistance] of this Convention can be contacted 24 hours a day, 7 days a week, to respond to a request made pursuant to this article]~~ responding to requests for legal and law enforcement assistance pursuant to articles 61 and 75 of this Convention shall be available 24/7 for the purposes of responding to a request submitted pursuant to this article: RU, NI].

7. The central authority ~~[or: AR] [(other: AR, RU, NI) competent: RU, GH, EC, NI] (authorities: AR)~~ responsible for mutual [legal: AR] assistance in both the requesting and requested States Parties may agree that ~~[the results of the execution of]~~ reply to: RU, NI] a request made in accordance with this article, or ~~[an advance]~~ RU, NI] copy thereof, may be provided to the requesting State Party through an alternative channel of communication other than that normally used for requesting ~~[mutual: RU, NI]~~ legal [and law enforcement: RU, NI] assistance.

~~[8.—In the event of an emergency, requests may be made directly (by the competent authorities of the requesting State Party to the relevant competent authorities of the requested State Party: AR) or through the 24/7 network established in accordance with article 67 of this Convention, or channels of the International Criminal Police Organization. In any such cases, a copy of the request shall be sent concurrently to the central authority of the requested State Party through the central authority of the requesting State Party. If the request is made directly to the central authority of the requested State Party and that authority is not the competent authority for execution of the request, the central authority shall refer the request to the competent authority and inform the requesting State Party's central authority of the referral.: JP, US]~~

~~[9.—Each State Party may, at the time of signature or deposit of its instrument of ratification, acceptance or approval or accession to this Convention, inform the Secretary General of the United Nations that, (for the sake of efficiency,: RU) requests made pursuant to this (paragraph article: RU, CARICOM) should be sent only to the central authority.: JP]~~

Article 67. 24/7 network

1. Each State Party ~~[shall be encouraged to: CN]~~ designate [in accordance its domestic law: EG] [within its competent authority: RU, NI] 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 [criminal: EU & mS] investigations, ~~[prosecutions: AU, UK]~~ or ~~[(other: -judicial: EU & mS, RU, CARICOM, EG, AM, NI, SG, UK)]~~ proceedings concerning criminal offences established in accordance with this Convention, or for the collection, [obtaining: RU, JP, CH, AU, UK], [preservation: CH, AU] and [sharing: JP, CH, AU] of evidence in electronic form of [offences set forth in this Convention: US, KE, NZ, IR, CN, EG, AM, UK, SG] [any criminal offence: RU, AU, KR, DZ, JP, AM, NI] [serious crimes: US, CN] [other criminal offences provided that those are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least four years: EU & mS] [taking into account existing channels, such as those made available by the International Criminal Police Organization: IR]. ~~[Such assistance (shall)should: CN] be provided without undue delay and in a secure manner: EU & mS, JP, US, MY, UK]~~. [Member States shall provide such assistance expeditiously.: US]
2. The ~~[Secretary General of the:US]~~ United Nations [Office on Drugs and Crime: US] shall be notified of such point of contact [, if available: CN] 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 a State Party, directly carrying out the following measures:
  - (a) The provision of technical advice [as may be available: US];
  - [ (b) The preservation of stored [computer data] [electronic/digital information] pursuant to articles 68 and 69; [delete subparagraph:]NI]
  - (c) The collection of evidence, ~~[the:RU]~~ [provision of legal information [and (the:RU) locating of suspects as may be available and permitted by domestic law: US].
  - [ (c bis) The provision of computer data to avert an emergency.: NZ; EU & mS]
4. (a) 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;  
~~[(b) 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 such authority or authorities on an expedited basis.:RU]~~
5. Each State Party shall ensure that trained and equipped personnel are available to ~~[facilitate ensure: RU]~~ the operation of the network.
6. States Parties ~~[shall may also: RU]~~ make ~~[(full: EU & mS, RU, MY)]~~ wider: EU & mS] use of and strengthen existing authorized networks of points of contact, where applicable, and within the limits of their domestic laws, including the 24/7 ~~[points of contact for networks, specialized networks on: EU & mS, MY]~~ computer-related crime of the International Criminal Police Organization [channels for prompt police-to-police cooperation and other methods of information cooperation, before using mutual legal assistance channels provided for in this chapter: EU & mS, NO, MY].  
[6 bis. : State Parties may establish secure direct means of information exchange between their competent authorities for the achievement of the purposes of this Convention.: PK]

CLUSTER 5



Article 68. ~~[Mutual (legal: RU, NI) assistance in the~~ NZ, CI, AU, UK, AZ, CR, NO, SY, CA, TH, TO] expedited preservation of ~~[stored-retained: RU, NI]~~ [computer data] [electronic/digital information]

~~[delete: US]~~

1. A State Party may request another State Party to order or otherwise obtain the expeditious preservation of [data] [information] ~~[stored-retained: RU, NI]~~ by means of a [computer system] [information and communications technology system/device] located within the territory of ~~[that other: CARICOM]~~ State Party ~~[for the purpose of criminal investigations, prosecutions and judicial proceedings concerning offences defined in this Convention and concerning other criminal offences provided that those are punishable under the laws of both States Parties concerned by deprivation of liberty for a maximum period of at least four years: EU & mS – against: US, CN] [or retained by any relevant service provider that is located or established in, or, through data processing activities, otherwise operates from the requested State: RU, NI]~~ and in respect of which the requesting ~~[State: NZ]~~ Party intends to submit a request for mutual assistance in the search or similar ~~[accessing access: EU & mS, LI, US]~~, seizure or similar securing, or disclosure of the ~~[[data] [information]: RU] [in compliance with information security standards: EC]~~.

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

(a) The ~~[authority seeking the preservation]~~ name of the requesting authority: RU, NI]; ~~[delete subparagraph: SD]~~

(b) The offence that is the subject of a criminal investigation ~~[prosecution: EG & mS]~~ or ~~[judicial: EU & mS, RU, US] [criminal: NZ]~~ proceedings and a brief summary of the related facts;

(c) The ~~[stored-retained: RU]~~ [computer data] [electronic/digital information] to be preserved and [their] [its] relationship to the offence;

(d) Any available information identifying the ~~[custodian of the stored]~~ person who possesses or controls the requested: RU] [computer data] [electronic/digital information] or the location of the [computer system] [information and communications technology system/device];

(e) The necessity of the preservation;

(f) That the ~~[requesting: CARICOM]~~ State Party intends to submit a request for mutual ~~[legal: CARICOM]~~ assistance in the search or similar ~~[accessing access: EU & mS, LI, US]~~, seizure or similar securing, or disclosure of the stored [computer data] [electronic/digital information];

~~[(g) [As appropriate: NZ, UK] The need to keep the request for preservation confidential and to not notify the user (that is being subject to investigation: MX, CO): LI, SD] [retain – AU, CARICOM, US] [A request for ensuring the confidentiality of the fact and substance of the request: RU, NI]~~

3. Upon receiving the request from another State Party, the requested State Party shall take all appropriate measures to preserve expeditiously the specified [data] [information] 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.

[4. A State Party that requires dual criminality as a condition for responding to a request for mutual assistance in the search or similar ~~[accessing access: EU & mS, US]~~, seizure or similar securing, or disclosure of stored [data] [information] 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.] ~~[delete paragraph – IN, PK, NZ, KE, EC, RU, NI, NE, AR; retain – US]~~

5. ~~[In addition; RU, SD]~~ a request for preservation may ~~[only; AU]~~ be refused if:

~~[delete paragraph – IN, PK, SY, EG, AR, CN, TO]~~

~~[(a) The request concerns an offence that the requested State Party considers a political offence or an offence connected with a political offence; or (delete subparagraph: EG, RU, NI, SD)]~~

~~(b) The requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests.~~

~~[(b bis) The request concerns an offence under military law, which is not also an offence under ordinary criminal law.: TH]~~

~~[5 alt. In addition, a request for preservation may only be refused based on the grounds set out in article 61.: EU & mS, CH; delete: EG, US]~~

6. Where the requested State Party believes that preservation will not ensure the future availability of the [data] [information] or will threaten the confidentiality of or otherwise prejudice the requesting State Party's ~~[criminal: EU & mS]~~ investigation, ~~[if inquiry, prosecution, or other criminal proceedings, the requested State Party may postpone the execution of the said request, and: TH]~~ 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 the request referred to in paragraph 1 shall be for a period of ~~[not less than (sixty/ninety: BF, EG, TH) days]~~ ~~no more than ninety: NZ, AU, UK, EC, CR, NO, NE, US, TO]~~, ~~[extendable to a maximum of 180 days: TH]~~ in order to enable the requesting State Party to submit a request for the search or similar ~~[accessing access: EU & mS]~~, seizure or similar securing, or disclosure of the [data] [information]. Following the receipt of such a request, the [data] [information] 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, for not more than a further ninety days, and a total period of not more than one-hundred and eighty days. Any extension request by a requesting State Party must specify the same requirements as paragraph 2: NZ, EC, SY; EU & mS]~~

~~[Article 68 alt. Mutual legal assistance in the expedited preservation of stored  
[computer data] [electronic/digital information]~~

~~1. Each Party shall ensure that its competent authorities may, without undue delay, respond to a request from another Party for the preservation of specific stored electronic information that is relevant to a criminal investigation including information retained by any relevant service providers that is located or established in, or, through data processing activities, otherwise operates from the requested state.~~

~~2. Pursuant to paragraph 1, the requested state party shall:~~

~~(a) Process the request in accordance with its domestic laws and the provisions of this treaty~~

~~(b) Take all necessary measures to preserve the requested information in a timely manner, including appropriate use of technical measures for the duration specified.~~

~~(c) The effected preservation shall be for a period of not less than 90 days, or as otherwise agreed by State Parties.~~

~~(d) Keep the preservation request confidential and do not notify the user.~~

3. The requesting State Party shall comply with format of application, conditions or limitations of acceptance and grounds of refusal set forth in Article 61 of this Convention, and shall take appropriate measures to ensure the confidentiality and security of the preserved information.: PK; against: CA, NZ, US]

Article 69. ~~[Mutual (legal: RU, NI)-assistance in the~~ NZ, AU, UK, AZ, SY, CA, TH,  
TO] expedited disclosure of  
preserved traffic [data] [information]

1. Where, in the course of the execution of a request made pursuant to article 68 to preserve traffic [data] [information] 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: NI] [information] to identify that service provider and the path through which the communication was transmitted.

~~[2. Disclosure of traffic [data] [information] under paragraph 1 may only be (refused/withheld: US) if:~~

~~— (a) The request concerns an offence that the requested State Party considers a political offence or an offence connected with a political offence; or [delete subparagraph: RU, NI, EG, SD]~~

~~— (b) The requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests.: CN]~~

[ (b bis) The request concerns an offence under military law, which is not also an offence under ordinary criminal law.: TH]

[2 alt. Disclosure of traffic [data] under paragraph 1 may only be refused based on the grounds set out in article 61.: EU & mS, US, CN; delete: EG]

[Article 69 alt. Mutual legal assistance in the expedited disclosure of  
preserved traffic [data] [information]

1. Where, in the course of the execution of a request made pursuant to Article 68 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 information, 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 information was transmitted.

2. When disclosing traffic data pursuant to the provision paragraph 1 of this article, the requested State Party shall take into account the nature and urgency of the investigation and shall provide the requested information in a timely and efficient manner. The requested State Party shall also consider providing accompanying metadata or other relevant information necessary to understand the context and meaning of the requested information.: PK, against: CA, NZ, US]

[Article 69 bis. Mutual Legal Assistance for expedited production  
of subscriber information and traffic data

A State Party may request another state party to issue an order compelling a service provider in the requested Pa'ty's territory to produce specified and stored:

(a) Subscriber information, and

(b) Traffic data

in the possession or control of the service provider, which is necessary for the Pa'ty's specific criminal investigations or proceedings.

The requesting State Party shall submit supporting information and any special procedural instructions to the requested State Party in its request.

The requested Party may accept requests in electronic form and may require appropriate levels of security and authentication before accepting the request.

The requested Party shall make reasonable efforts to serve the service provider within forty-five days of receiving the request, if not sooner, and shall order a return of the requested information or data no later than:

(i) Twenty days for subscriber information, and

(ii) Forty-five days for traffic data.

The requested Party shall also facilitate the transmission of the produced information or data to the requesting Party without undue delay.

If the requested Party is unable to comply with the request, it shall promptly inform the requesting Party and, where applicable, specify any conditions under which it could comply. Following this, the requesting Party shall determine whether to proceed with the request.: IN; against – US, EU & mS, CA, NZ, US]

*Article 70. ~~[Mutual (legal: RU, NI) assistance in: SY]~~ accessing  
stored [computer data] [electronic/digital information]*

[delete – US, NZ, AO, AU, NO, CA, TH, FJ; retain – MY]

1. A State Party may request another State Party to search or similarly access, seize or similarly secure, and disclose [subscriber/user: RU] [data] [information] [traffic or content data: RU] stored by means of a [computer system] [information and communications technology system/device] located within the territory of the requested State Party, [for the purpose of criminal investigations, prosecutions and judicial proceedings concerning offences defined in this Convention and concerning other criminal offences provided that those are punishable under the laws of both States Parties concerned by deprivation of liberty for a maximum period of at least four years: EU & mS] [or by any relevant service provider that is located or established in, or through data processing activities, otherwise operates from the requested State Party: PK] [or by any relevant service provider that is located or established in, or, through data processing activities, otherwise operates from the requested State: RU, NI] including [accessing: EU & mS] [data that have] [information that has] been preserved pursuant to article 68.

~~[2. — The requested State Party shall respond to the request through the application of (relevant: LI) international instruments, arrangements and laws referred to in article [56] [on general principles of international cooperation], and in accordance with other relevant provisions of this chapter.: PK, EG, SD]~~

[2 alt. The re...: EG]

[2 alt. The execution of the request shall be carried out in accordance with the provisions of this Convention, the applicable international treaties and the domestic law of the requested State Party.: RU, NI; against – US]

[2 bis. Such assistance shall be subject to the conditions and procedures provided for by the domestic law of the requested State Party and shall be provided upon a request specifying:

(a) The name of the requesting authority;

(b) A brief statement of the circumstances of the offence committed, in connection with which the examination, investigation, prosecution or proceedings are being carried out;

(c) Information about the persons with respect to whom the assistance is required;

(d) Particular network access, equipment or service level identifiers subject to the requested measure;

(e) Information to be provided;

(f) Justification for the need to obtain it.: RU, NI; against – US]

~~[3. — The request shall be responded to on an expedited basis where:~~

~~— (a) — There are grounds to believe that the (relevant: LI) [data are] [information is] particularly vulnerable to loss or modification; or~~

~~— (b) — The instruments, arrangements and laws referred to in paragraph 2 otherwise provide for expedited cooperation.: PK, CN]~~

*Article 71. Emergency* ~~[mutual: UK] (legal: RU, NI, UK) [assistance: UK] in the expedited production of stored [computer data] [electronic/digital information]~~

~~[delete: EU & mS, MY, JP, PK, TR, US, NZ, BR, AU, AO, KR, NO, SY, ID, KR, DZ, MO, NE, CA, FJ; retain – EC, VE, EG]~~

1. Each State Party shall adopt such legislative ~~[and or: SG]~~ other measures as may be necessary, in an emergency, to enable its point of contact in the 24/7 network referenced in article [67] [on the 24/7 network] of this Convention to transmit a request to and receive a request from a point of contact in another State Party seeking immediate assistance in obtaining from a service provider in the territory of that State Party the expedited production of specified stored ~~[subscriber/user: RU]~~ [computer data] [electronic/digital information] ~~[traffic or content data: RU]~~ in that service provider's possession or control.

~~[2. — Each State Party may reserve the right not to disclose the specified stored [computer data] [electronic/digital information] to the requesting State Party until the requesting State Party transmits an emergency mutual (legal: RU, NI) assistance request in accordance with article [66] [on emergency mutual (legal: RU, NI) assistance]: UK]~~

~~[3. — A State Party may, at the time of signature of this Convention or when depositing its instrument of ratification, acceptance, approval or accession, declare that it will (not: RU) execute requests made in accordance with paragraph 1 seeking only the disclosure of subscriber [user: RU] information.: IR, CN]~~

4. Each State Party shall, pursuant to paragraph 1, adopt such legislative and other measures as may be necessary to enable:

(a) Its authorities to seek [computer data] [electronic/digital information] from a service provider in ~~[its the: RU]~~ territory ~~[of this State Party: RU]~~ following a request made in accordance with paragraph 1;

(b) A service provider in ~~[its the: RU]~~ territory ~~[of this State Party: RU]~~ to disclose the requested [computer data] [electronic/digital information] to its authorities in response to a request made in accordance with subparagraph (a); and

(c) Its ~~[competent: NI]~~ authorities to provide the requested [computer data] [electronic/digital information] to the requesting State Party.

5. The request made in accordance with paragraph 1 shall specify:

(a) The competent authority seeking the [computer data] [electronic/digital information] and the date on which the request was issued;

(b) A statement indicating that the request has been issued pursuant to this Convention;

(c) The ~~[commercial: MX]~~ name ~~[and address: MX]~~ of the service provider or providers in possession or control of the [computer data] [electronic/digital information] sought ~~[, and when it is known, its name and address: MX] [requested: RU];~~

(d) The offence or offences that is or are the subject of the criminal investigation or proceedings and a reference to ~~[its or the: RU]~~ legal provisions and applicable penalties ~~[under the domestic law of the requesting State Party: RU];~~

(e) Sufficient facts to demonstrate that there is an emergency and how the [data] [information] ~~[sought]~~[requested: RU](#) [relate] [relates] to it;

(f) A detailed description of the [computer data] [electronic/digital information] ~~[sought]~~[requested: RU](#);

(g) Any special procedural instructions;

(h) Any other information that may assist in obtaining disclosure of the requested [computer data] [electronic/digital information].

6. The requested State Party shall accept a request made in accordance with this article in electronic form. A State Party may also accept a request transmitted orally and may require confirmation in electronic form. It may require appropriate levels of security and authentication before accepting the request.

~~[7. — A State Party may, at the time of signature of this Convention or when depositing its instrument of ratification, acceptance, approval or accession, declare that it requires the requesting State Party, following the execution of the request, to submit the request and any supplemental information transmitted in support thereof in a format and through such a channel, which may include mutual legal assistance, as specified by the requested State Party.: [IR](#)]~~

8. The requested State Party shall inform the requesting State Party of its determination on the request made in accordance with paragraph 1 on a rapidly expedited basis and, if applicable, shall specify any conditions under which it would provide the [data] [information] and any other forms of cooperation that may be available.

9. If a requesting State Party cannot comply with a condition imposed by the requested Party in accordance with paragraph 8, it shall promptly inform the requested State Party. The requested State Party shall then determine whether the [data] [information] or material should nevertheless be provided. If the requesting State Party accepts the condition, it shall be bound by it.

10. The requested State Party that supplies [data] [information] or material subject to such a condition may require the requesting State Party to explain in relation to that condition the use made of such [data] [information] or material.

*Article 72. Cross-border access to stored [computer data]  
[electronic/digital information] with consent or where publicly available*

~~[delete article – IN, PK, US, CN, NZ, EG, KE, SD, AU, RU, CO, NO, CA, TZ, SY, DZ, BF, SG, ZA, NI, MO, TO, EU & mS, FJ; retain – EC, VE]~~

~~[Subject to a reservation; [LI, AU](#); retain – EC]~~ a State Party may, without the authorization of another State Party:

~~(b)~~ ~~—~~ (a) Access publicly available (open source) stored [computer data] [electronic/digital information], regardless of where the [data are] [information is] located geographically; or

~~[— (b) — Access or receive, through [a computer system] [an information and communications technology system/device] in its territory, stored [computer data] [electronic/digital information] located in another State Party, if the State Party accessing or receiving the [data] [information] obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the [data] [information] to that State Party through that computer system.: [MY, AO, NA](#)]~~

*Article 73. Mutual legal assistance in the real-time collection of traffic  
[data] [information]*

**[Under informal consultations]**

**[Link to report of co-facilitators](#)**



1. States Parties shall provide mutual legal assistance to each other in the real-time collection of traffic [data] [information] associated with specified communications in their territory transmitted by means of a [computer system] [information and communications technology system/device]. 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 provide such assistance at least with respect to criminal offences for which the real-time collection of traffic [data] [information] 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 [computer data] [electronic/digital information] in relation to which the collection of the traffic [data] [information] is required and [their] [its] relationship to the offence or other illegal act;
  - (d) Any available [data that identify] [information that identifies] the owner or user of the [data] [information] or the location of the [computer system] [information and communications technology system/device];
  - (e) Justification for the need to collect the traffic [data] [information];
  - (f) The period of collection of the traffic [data] [information] and its corresponding justification.

*Article 74. Mutual legal assistance in the interception of  
[content data] [information in electronic/digital form]*

**[Under informal consultations]**

**[Link to report of co-facilitators](#)**

States Parties shall provide mutual legal assistance to each other in the real-time collection or recording of [content data] [information in electronic/digital form] of specified communications transmitted by means of a [computer system] [information and communications technology system/device], to the extent permitted under treaties applicable to them, as well as their domestic laws.

## CLUSTER 6

*Article 75. Law enforcement cooperation*

[\[retain original: EG, MZ, TZ, FJ\]](#)

[\[align with Articles 27 UNTOC/48 UNCAC: CH, GE\]](#)

1. States Parties [\[shall—may: CA, YE\]](#) cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to [\[prevent, disrupt and: IN\]](#) combat the offences [\[established in accordance with this Convention: US, PK\]](#) ~~[\[covered by this Convention\]](#)~~ [committed using information and communications technologies: IN, RU, NI](#). Each State Party [\[shall may: CA\]](#), in particular, [\[adopt—take: LI\]](#) effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their [\[competent law enforcement: PK, RU\]](#) ~~[\[authorities: RU\]](#)~~ [\[and services: RU\]](#) [\[taking into account the existing channels available, such as the international Criminal Police Organization, among others.: NG, DO\]](#) in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences ~~[\[\(covered by established in accordance with: US\) this Convention\]](#)~~ [\[committed with the use of information and communication technologies: RU, YE\]](#),

including, if the States Parties concerned deem it appropriate, links with other criminal activities;

(b) To cooperate with other States Parties in conducting inquiries with respect to offences ~~[(covered-established in accordance with: US)]~~ by this Convention [committed with the use of information and communication technologies: RU, YE, NI] ~~[concerning in order to reveal: RU]~~;

(i) The identity, [electronic/digital foot prints: IN] whereabouts and activities of persons suspected of involvement in such offences ~~[or the location of other persons concerned: RU]~~;

(ii) The [location: IN] ~~[movement-of: US]~~ proceeds of crime or property derived from the commission of such offences;

(iii) The movement ~~[and the location: LI]~~ of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

[ (iii bis) Criminal records... CL]

~~[(e) To provide, where appropriate, necessary items or [data] [information] for (analytical or : PK) investigative purposes;: US]~~

[ (c alt) To provide, where appropriate, necessary items that were used to commit offences, including instruments of offence; items that were acquired as a result of offences or as a reward for them, or items that the offender received in exchange for items acquired in this way; and items that may serve as evidence in a criminal case: RU, N ; against: CA, NZ, US]

(d) To exchange [, where appropriate: LI, DZ] information with other States Parties ~~[on concerning: LI]~~ specific means and methods used ~~[by those committing to commit: LI]~~ the offences ~~[(covered-by-established in accordance with: US)]~~ this Convention [with the use of information and communication technologies: RU, YE, NI], including, where [applicable appropriate: US, NZ], the use of false identities, altered or false documents or other means of concealing their activities and the use of ~~[illicit: CA]~~ encrypted platforms and [cybercrime tactics, techniques and procedures ~~dele-e - RU~~] [tactics, techniques and procedures ~~[associated-with-of: RU]~~ the use of information and communications technologies for criminal purposes], as well as ~~[operational indicators of compromise and other indicators of concern as well as any other similar information: RU]~~; [rephrase to reflect UNCAC: UK]

[ (d alt) To exchange information with other States Parties on specific means and methodologies used by those committing the offences covered by this Convention, including, where applicable, the use of false identities, altered or false documents or other means of concealing their activities, as well as operational indicators of compromise and other indicators of concern;: AU, NZ; against - CA]

[ (d bis) 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: EU & mS; CARICOM, LI, NZ, EG, GH, TO, FJ] [combine with e bis: CA]

[ (e) To exchange information and coordinate administrative and other measures taken, as appropriate, for the purpose of early identification of the offences ~~[(covered-by-established in accordance with: US)]~~ this Convention. (delete: AU)]

[ (e alt) To exchange information of interest and take coordinated action for the early detection of the offences committed with the use of information and communication technologies;: RU, NI - delete: CA, NZ, US]

[ (e bis) To facilitate effective coordination between law enforcement agencies and encourage the exchange of personnel and other experts, including the posting of liaison officers;: RU, NI - delete: NZ, US]

2. With a view to giving effect to this Convention, States Parties ~~[shall may: YE]~~ 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]~~ (also consider the feasibility of introducing amendments to them: RU) (if required and mutually agreed: AU). In the absence of such agreements or arrangements between the States Parties concerned, the Parties may consider this Convention as the basis for [mutual: US, LI] law enforcement cooperation in respect of the offences ~~[(covered by established in accordance with: US)]~~ this Convention [committed with the use of information and communication technologies: RU, YE, NI]. Whenever appropriate, States Parties shall make full use of [applicable: RU] agreements or arrangements, including [those of: RU] international or regional organizations, to enhance the cooperation between their law enforcement agencies. [To avoid or reduce delays of law enforcement activities, States Parties shall ensure, as soon as is practicable, that any agreements or arrangements for law enforcement cooperation do not conflict with this Convention and its interpretation in respect of the offences covered by this Convention.: CA]

[3. States Parties ~~[shall: YE]~~ endeavour to cooperate within their means to respond to offences ~~[(covered by established in accordance with: US)]~~ this Convention [committed: JP] through the use of modern technology. ~~(delete: CN, PK, AU, CA, UK, RU, NZ, NE, NI, DZ, DO)]~~

*Article 76. Public-private partnerships to enhance the investigation of [cybercrime]  
[offences committed with: RU] [the use of information and communications  
technologies for criminal purposes]  
[Enhancing cooperation with service providers on the disclosure of electronic  
evidence: AU]*

[delete – EU & mS, US, JP, CH, PK, IL, AU, SG, CA, UK, LI, NZ, GE, FJ, CN, NO, TO; retain – YE, IR, CF, CI, SN, CM, TZ, TD]

[1. States Parties ~~[shall collaborate]~~ are encouraged to collaborate: CARICOM, TO, TZ [may consider collaborating: DZ] ~~[in order to conclude bilateral and multilateral agreements or arrangements to: AU]~~ assist their respective law enforcement agencies in cooperating directly with relevant service providers in their respective territories through public-private partnerships, with a view to streamlining cooperation with industry ~~[and enhancing collaboration between States Parties, Governments and private service providers to establish modalities or protocols of cooperation in law enforcement, the investigation of [cybercrime] [the use of information and communications technologies for criminal purposes] and evidence collection, in particular for addressing the challenges posed by the cross-border acquisition of electronic evidence.:AU]~~ [delete paragraph: RU, VN, NI]

[1. States parties are strongly encouraged to develop and maintain partnership mechanisms with service providers aimed at assisting their law enforcement agencies in combating the criminal use of information and communications technologies: BF]

2. States Parties ~~[(shall: YE)]~~ may: VN, IN ~~[develop may consider developing: DZ, TZ]~~ [comprehensive: IR] guidelines for service providers ~~[in for: RU]~~ assisting [their: RU] law enforcement agencies in the investigation of [cybercrime] [the use of information and communications technologies for criminal purposes] [offences committed with [the use of information and communications technologies: RU, YE], including with regard to the format and duration of preservation of [digital electronic: RU] evidence and information, [as well as the cross-border acquisition of electronic evidence. IN, RU] [in accordance with States Parties' domestic legislation and treaties.: NI] [States may decide to consult with specialized organizations such as Interpol in this process.: IR] [in accordance with their fundamental principles of domestic law: TZ]

[ (b) The requests referred to in paragraph (a) may only relate to offenses involving an asset harboured in the territory of the requesting State or one of its nationals.; CM]

[2 alt. States Parties shall endeavour to establish guidance on current applicable domestic legal frameworks to streamline the disclosure and preservation of electronic evidence.; AU]

[2 bis. Service providers reserve the right to refuse to comply with a State Pa'ty's request if the respondent is being prosecuted for his or her political, religious or cultural views.; CM]

[Article 76 alt. Cooperation between States Parties' competent authorities and service providers]

1. States Parties shall adopt such legislative and other measures as may be necessary to ensure that service providers in their territories cooperate directly, for the purpose of specific criminal investigations and proceedings, with the competent authorities of other States Parties, in particular with a view to obtaining or preserving electronic evidence, to suppressing the disorder caused by the offence or to identifying the perpetrators.

2. Collaboration with service providers for the purposes of specific criminal investigations and proceedings under paragraph 1 of this Article shall consist of requests to, inter alia

(a) the preservation or prompt disclosure of computer data

(b) to make a copy of computer data;

(c) rendering inaccessible or removing or deleting data from the service provider's computer system;

3. The States Parties shall, in relation to service providers, develop mutually agreed guidelines for the purpose of establishing the modalities of cooperation of the competent authorities of the States Parties with such service providers, including

(a) The determination of the authorities entitled to make requests for cooperation under paragraph 2 of this Article ;

(b) The grounds for refusing cooperation;

(c) The format and particulars to be included in the request for cooperation;

(d) The nature and duration of the retention of computer data.; CM; against – SG]

*Article 77. Joint investigations*

[delete – CH; retain – EG, AU, SG, UK, GE, CL, NE, TO, DZ, MZ, TZ, FJ, AU, NZ]

States Parties [~~shall~~ may: IN, YE, SG] consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of [criminal: EU & mS, NO] investigations, prosecutions or [judicial other: AU] proceedings in one or more States [involving offences established in the Convention: CA, NZ], the competent authorities concerned may establish joint investigative bodies [with a view to enhancing enforcement capabilities: EU & mS, NO]. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis [, or through the International Criminal Police Organization: IR]. The States Parties involved shall ensure that the sovereignty of the State Party in the territory of which such investigation is to take place is fully respected.

[Article 77 alt. Joint investigations]

The competent authorities of two or more States Parties may, by mutual agreement, set up joint investigative teams for a specific purpose and for a limited

time period, which may be extended by mutual consent, to conduct criminal investigations in one or more of the States Parties that have set up the team. Such joint investigative teams operate on the basis of agreements or arrangements reached between the respective competent authorities of those States Parties.

A request for setting up a joint investigation team may emanate from any interested State Party. The team shall be formed in one of the States Parties where the investigation is to take place. The composition of the team is determined by these agreements.

The States Parties shall ensure that the sovereignty of the State Party in whose territory such an investigation is to take place is fully respected.: RU ,NI – delete: NZ, US]

*Article 78. Special investigative techniques*

[delete – CH, US, LI, JP, CA, UK, NZ, GE, DO, FJ, NO; retain: EG, DZ, MZ, TZ]

1. In order to [prevent, disrupt and: IN] combat [cybercrime] [the use of information and communications technologies for criminal purposes] effectively, each State Party [shall/may: YE], to the extent permitted by [the fundamental principles of: AU] its domestic law and subject to [the conditions prescribed by its domestic law/its obligations under international human rights law: AU], to the best of its ability, take such measures as may be necessary to allow for the appropriate use by its competent authorities of controlled delivery and other special investigative techniques, such as electronic or other forms of surveillance, as well as for the conduct of undercover operations by its competent authorities in its territory, [and to ensure that the evidence gathered through such methods is acceptable before the courts: to provide a lawful basis for collection of such evidence for use in investigations and prosecutions: AU].

2. For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of the sovereign equality of States and carried out strictly in accordance with the terms of those agreements or arrangements.

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level [1. shall be made on a case-by-case basis and may,

2. when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned. (restructuring: NA)]

[4. Decisions to use special investigative techniques at the international level may, with the consent of the States Parties concerned [and with observance of the principle of the sovereign equality of States: IR], include methods such as collecting and intercepting traffic or content [data] [information], and allowing the uninterrupted transmission of such [data] [information] or [their] [its] removal or replacement in whole or in part. (delete paragraph: AU, LI) (and with observance of the principles of sovereign equality of States: IR)]

*[Article 78 alt. Special investigative techniques]*

1. For the purpose of effectively combating offences covered by this Convention, identifying and tracing instrumentalities and proceeds of such offences, or property the value of which corresponds to such proceeds, each State Party shall, to the extent permitted by the fundamental principles of its domestic legal system and under the conditions prescribed by its domestic law, take the necessary measures to allow for the use of covert special investigative techniques, such as electronic or other forms of

surveillance, online undercover operations or extended searches by its competent authorities in its territory or in the territory under its jurisdiction, and to ensure that the evidence collected through the use of such measures is admissible in judicial proceedings.

2. If there are reasonable grounds to believe that a serious offence covered by this Convention has been, is being or is likely to be committed, a State Party shall, within its possibilities and under the conditions prescribed by its domestic law, at the request of another State Party for legal or law enforcement assistance, and where necessary jointly with the competent authorities of that other State Party, carry out covert special investigative techniques, such as electronic or other forms of surveillance, online undercover operations or extended searches by its competent authorities in its territory or in the territory under its jurisdiction, and provide the evidence collected through the use of such measures to the requesting State Party.

3. A request made in accordance with paragraph 2 of this article shall specify:

(a) Particular individuals, entities, locations or devices, instrumentalities, proceeds or property subject to the requested measure;

(b) Particular network access, equipment or service level identifiers subject to the requested measure;

(c) Where that person(s), entity or equipment, instrumentalities, proceeds or property are, or are suspected to be, located in the requested State or any relevant service provider is located or established in, or, through data processing activities, otherwise operates from the requested State;

(d) The type of covert special investigative technique for which the assistance is sought, and the persons, service providers or entities that may be required to assist in its implementation;

(e) The duration for which the assistance is sought; and

(f) The nature of the data or information that is expected to be collected, and specifically the links to serious crime investigated in the requesting State, as well as justification of the prosecution.: RU, NI; against – CA, NZ, US]

## CLUSTER 7

[delete cluster – SN]

*Article 79. [General principles for: AO] Measures for the recovery of property[/assets: RU, PK, DZ, DO, MW, NG, IR, NI; against – NZ]*

[delete article: EU & mS, NZ, US, JP, LI, NO, CA, GH, SG, UK, AU; retain – NG, CO, DZ, EG, CO, EC, CV, VE, PE, MY] [align with UNCAC: CI]

States Parties shall afford each other the widest measure of cooperation and mutual legal assistance in the recovery of property[/assets: RU, PK, DZ, DO, MW, NG, IR, NI] obtained by criminal means, [including in civil proceeding where it is connected to a criminal proceeding.: TH] in compliance with the provisions of this Convention [, other international instruments to which they are Party: CO] and their domestic law~~[, taking into account the relevant initiatives of international regional and interregional organizations on combating money laundering.: CO, DZ]~~

[bis Each State party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight relevant bodies preventing and detecting transfers of proceeds of offences established in accordance with this Convention.: IR]

*Article 80. Measures for the direct recovery of property[/assets: RU, PK, DZ, DO, MW, NG, IR, NI]*

[delete Article: US, CH, NO, FJ, AU, CA; retain – NG, EG, EC, VE, TZ, PE, MY]

[adapt language in articles 80-83 to reflect UNTOC rather than UNCAC: LI, MW]



Each State Party shall, in accordance with its domestic law, take such ~~[legislative or other: EU & mS, JP]~~ measures as may be necessary:

- (b) ~~\_\_\_\_\_~~ (a) To permit another State Party, ~~[its citizens and stateless persons permanently residing in its territory, and legal persons established or having a registered office in its territory; EU & mS, NZ, CARICOM, LI, CO, DZ, UK, KE, TZ, NA]~~ to ~~[initiate commence: NA]~~ (civil judicial: PY) ~~(action proceedings: CARICOM, NA)~~ in ~~[the courts of that State Party its own courts, in accordance with domestic law; NA]~~ to establish ~~[a property right violated as a result of the commission of an offence [title to or ownership of property acquired through the commission of an offence: EU & mS, LI, TZ] [covered by established in accordance with: CARICOM, LI, CO, ZA]~~ this Convention;

~~\_\_\_\_\_ (a alt) To permit a State Party to commence civil proceedings in its own courts, in accordance with its domestic law, to establish a property right violated as a result of the commission of an offence established by this Convention:: NA]~~

~~\_\_\_\_\_ (a alt) To permit another State Party, its citizens, stateless individuals with permanent residency, and legal entities established or registered within its jurisdiction, to commence civil proceedings in accordance with its domestic law, within the courts of that State Party, for the purpose of establishing a property right violation resulting from the commission of an offence established covered by this Convention: NA]~~

(b) To permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party ~~[, its citizens and stateless persons permanently residing in its territory, and legal persons established or having a registered office in its territory: TH]~~ that has been harmed by such offences; ~~[and: RU]~~ ~~[delete sub-paragraph: IN]~~

(c) To permit its courts or competent authorities, when having to decide on ~~[confiscation seizure: PY]~~ ~~[of property/assets: RU, PK, DZ, DO, MW, NG, IR, NI]~~, to recognize ~~[, in whole or in part, claims of other States Parties, (their citizens or stateless persons permanently residing in their territory, or of legal persons established or having a registered office in their territory; CARICOM, UK, DZ, KE, NA) another State Party's claim: EU & mS, NZ, LI]~~ as legitimate owners of property ~~[/assets: RU, PK, DZ, DO, MW, NG, IR; delete: TZ]~~ ~~[acquired obtained: PY]~~ through the commission of an offence established in accordance with this Convention.

*Article 81. Mechanisms for the recovery of property* ~~[/assets: RU, PK, DZ, DO, MW, NG, IR, NI]~~ through  
international cooperation in confiscation  
~~[delete: CI; retain original – UK, DZ, EC, ZA, TZ, EG, MY]~~  
~~[merge with article 82: ID]~~

1. Each State Party, in order to provide mutual legal assistance pursuant to article [82] ~~[on international cooperation for the purposes of confiscation]~~ of this Convention with respect to property ~~[/assets: RU, PK, DZ, DO, MW, NG, IR, NI]~~ acquired through or involved in the commission of an offence established in accordance with [the articles on criminalization of] this Convention, shall, in accordance with its domestic law:

(a) ~~[Take Consider taking: EU & mS, JP, NO]~~ 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 ~~[/assets: RU, PK, DZ, DO, MW, NG, IR, VE]~~ 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

(c) ~~[Take-Consider taking: RU, CARICOM, LI, TH]~~ such measures as may be necessary to allow the confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight ~~[or absence: EU & mS, NO]~~ or in other appropriate cases.

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to [article 82, paragraph 2,] of this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property ~~[/assets: RU, PK, DZ, DO, MW, NG, IR, VE]~~ 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 ~~[/assets: RU, PK, DZ, DO, MW, NG, IR, NI]~~ would eventually be subject to an order of confiscation for the purposes of paragraph 1 (a) of this article;

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property ~~[/assets: RU, PK, DZ, DO, MW, NG, IR, NI]~~ 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 ~~[/assets: RU, PK, DZ, DO, MW, NG, IR, NI]~~ would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and ~~[delete sub-paragraph: IN]~~

(c) Consider taking additional measures to permit its competent authorities to preserve property ~~[/assets: RU, PK, DZ, DO, MW, NG, IR, NI]~~ for confiscation, ~~[such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property: YE]~~ ~~[/assets: RU, PK, DZ, DO, MW, NG, IR, NI]~~. ~~[delete sub-paragraph: IN]~~

~~[2 bis. The provision of legal assistance in accordance with paragraph 2 of this article is carried out on the basis of a relevant request sent in writing.: RU, NI – delete: CA]~~

*Article 82. International cooperation for the purposes of confiscation*

~~[delete – CH; retain – EG, EC, MZ, TZ, FJ, MY]~~ ~~[align with UNCAC: AU]~~

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 confiscation of proceeds of crime, property ~~[/assets: RU, PK, DZ, DO, MW, NG, IR, VE]~~, equipment or other instrumentalities referred to in article [50] [on freezing, seizure and confiscation of the proceeds of crime], paragraph 1, of this Convention situated in its territory ~~[or digital/virtual assets under the control of person including legal person present in its territory: IN]~~ 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

(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 [50], paragraph 1, of this Convention insofar as it relates to proceeds of crime, property ~~[/assets: RU, PK, DZ, DO, MW, NG, IR, NI]~~, 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[/assets: RU, PK, DZ, DO, MW, NG, IR, NI], equipment or other instrumentalities referred to in article [50], 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 [61] [on general principles and procedures relating to mutual legal assistance] are applicable, mutatis mutandis, to this article. In addition to the information specified in article [61], paragraph 14, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property[/assets: RU, PK, DZ, DO, MW, NG, IR, NI] to be confiscated, including, to the extent possible, the location, and where relevant, the estimated value of the property[/assets: RU, PK, DZ, DO, MW, NG, IR, NI] 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;

(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 information regarding: RU~~] 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~~also the fact: RU] that the confiscation order is final;

(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.

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 and: RU, DZ~~] any bilateral or multilateral [~~treaty: LI~~], agreement or arrangement to which it may be bound in relation [~~to by: RU~~] the requesting State Party.

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.

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.

7. [~~Cooperation under this article may be refused by a State Party if the offence to which the request relates is not an offence established in accordance with this Convention.: RU, DZ, EG, NI~~] Cooperation under this article may [~~also: RU~~] 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: RU, TH, VE, NI~~] [~~delete paragraph: AO, CN~~].

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.

9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

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.

#### *Article 83. Special cooperation*

[~~delete – JP, LI, NO, CA, YE, UK, AM, AU; retain original – EC, TZ, MY~~] [~~align with UNCAC: FJ~~] [~~merge with article 64: EG~~]

Without prejudice to its domestic law, each State Party shall endeavour to take measures to forward to another State Party, on its own initiative ~~[(and provided that such action does not prejudice investigations or judicial proceedings without prejudice to its own investigations or prosecutions or judicial proceedings: DZ)]~~ carried out by its own competent authorities ~~(delete): ID]~~, information on property derived from the commission of an offence covered by this Convention when it considers that the disclosure of such information might provide grounds for the competent authorities of the receiving State Party to initiate [or carry out: DZ] an investigation~~],~~ prosecution: NZ, DZ, CV] or judicial proceeding, or might lead to a request by that State Party under this chapter.

[alt. 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 this chapter.: EU & mS, SG]

[alt. Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own 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 investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.: CARICOM, SG]

*Article 84. Return and disposal of confiscated proceeds of crime or property*

[Option 1: RU, AO, MY, PK, CO, SG, DZ, ID, AR, DZ, IR, NI, BF, EG, NA, SG

1. A State Party that has confiscated property pursuant to the provisions of article [50] [on freezing, seizure and confiscation of the proceeds of crime] or [82] [on international cooperation for the purposes of confiscation], paragraph 1, of this Convention shall dispose of such property, including by returning it to its prior legitimate owners, in accordance with paragraph 3 of this article and its domestic law ~~[and administrative procedures: RU, DZ, NI]~~.

2. Each State Party shall adopt such legislative and other measures as may be necessary to enable its competent authorities to return confiscated property, when acting on a request made by another State Party in accordance with this Convention, taking into account the rights of bona fide third parties ~~[and in accordance with its domestic law: DZ]~~.

3. In accordance with article [82] [on international cooperation for the purposes of confiscation] of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

[ (a) In the case of embezzlement of public property, when confiscation has been executed in accordance with article [93] [on prevention and detection of transfers of proceeds of crime] of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party; delete subparagraph: NA]

[ (a bis) In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with article [X] of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State

Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property:: DZ]

[ (b) In all other cases, give priority consideration to returning the confiscated property to [the requesting State Party, returning such property to: DZ] its prior legitimate owners or ~~[paying compensation]~~compensating ~~or damages to~~ the victims of the ~~offence~~crime.: DZ]

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations or judicial proceedings leading to the return or disposal of confiscated property pursuant to this article.

5. With a view to reaching mutually acceptable arrangements on the final disposal of confiscated property, States Parties may hold consultations and conclude separate agreements.]

[Option 1 alt.: SG

1. Property confiscated by a State Party pursuant to [relevant article on freezing, seizure and confiscation of the proceeds of crime] or [relevant article on international cooperation for the purposes of confiscation] of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

3. In accordance with [relevant articles on mutual legal assistance and international cooperation for the purposes of confiscation] of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

(a) In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with [relevant article on international cooperation for the purposes of confiscation] of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;

(b) In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

5. Where appropriate, States Parties may also give special consideration to concluding agreements or mutually acceptable arrangements, on a case-by case basis, for the final disposal of confiscated property.]

[Option 2: EU & mS, NZ, US, JP, LI, NO, CA, GH, KR, TH, CI, DO, CN, MW, UK, PY, EC, IN, KE, ZA, FJ, CV, AU, PE]

1. Proceeds of crime or property confiscated by a State Party pursuant to article [50] [on freezing, seizure and confiscation of the proceeds of crime] or [82] [on international cooperation for the purposes of confiscation], paragraph 1, of this

Convention ~~[shall be disposed of by that State Party in accordance with its domestic law and administrative procedures including by returning it to its prior legitimate owners, in accordance with paragraph 2 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law: EU & mS].~~

2. When acting on the 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: US]~~ legitimate owners.

3. When acting on the request made by another State Party in accordance with article [50] or article [82] of this Convention, a State Party may ~~[, after due consideration has been given to compensation of victims,: US]~~ 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 [89] [on implementation of the Convention through economic development and technical assistance], paragraph 3 (c), of this Convention and to intergovernmental bodies specializing in the fight against [cybercrime] [the use of information and communications technologies for criminal purposes];

(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.]

~~[4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations or judicial proceedings leading to the return or disposal of confiscated property pursuant to this article.: CV]~~

~~[5. With a view to reaching mutually acceptable arrangements on the final disposal of confiscated property, States Parties may hold consultations and conclude separate agreements.: CV]~~

~~[Option 2 with insertions from Option 1: CARICOM, TZ, FJ, SG; against – US]~~

~~1. Proceeds of crime or property confiscated by a State Party pursuant to article 50 or 82 paragraph 1 of this Convention shall be disposed of by that State Party in accordance with its domestic law and administrative procedures.~~

~~2. Each State Party shall adopt such legislative and other measures as may be necessary to enable its competent authorities to return confiscated property when acting on a request made by another State Party in accordance with this Convention, taking into account the rights of bona fide third parties and in accordance with its domestic law. [Option 1, Article 84 (2)]~~

~~3. When acting on the request made by another State Party in accordance with article 50 of this Convention, States Parties shall, to the extent permitted by their 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 or damages to the victims of the crime or return such proceeds of crime or property to their legitimate owners.~~

~~4. When acting on the request made by another State Party in accordance with article 50 or 82 of this Convention, a State Party may give special consideration to:~~

~~(a) contributing the value of the 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 89 paragraph 3 (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, the proceeds of crime or property, or funds derived from the sale of such proceeds of crime or property in accordance with its domestic law and administrative procedures.

5. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposal of the proceeds of crime or property, or funds derived from the sale of such proceeds of crime or property. [Option 1, Article 84 (4)]

6. Where appropriate, States Parties may conclude agreements, mutually acceptable arrangements or hold consultations on a case-by case basis for the final disposal of the proceeds of crime or property, or funds derived from the sale of such proceeds of crime or property. [based on Option 1, Article 84 (5)]

#### *Article 85. Expenses*

[delete: EU & mS, NZ, US, LI, NO, AO, CA, GH, KR, TH, SG, CV, AM, FJ, AU, UK; retain – NG, CO, KE, VE]

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 required to fulfil the request, the States Parties shall consult one another 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.

[alt Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.: PY]

### **Chapter V**

**Technical assistance, ~~[including (and: ID, MX, DO) CM] [(and capacity building: UK), including: IN, SY] [transfer of technology and: CM] information exchange [and transfer of technology: IR; against – NO, JP, KR, DO, EU & mS, NZ, CA, US, SG]~~**

*Article 86. General principles of technical assistance ~~[(and cyber/ICT) capacity building: TH] [and capacity-building: UK, CL, KE, ZW, PE]~~*

[delete – EU & mS, KR, CA, UK; retain – CO, CN, US, YE, VE, ZW, EG, MY]

1. [For achieving the purposes set out in article 1.: CO] The following principles shall guide States Parties with regard to the provision of technical assistance and capacity-building [among other forms of assistance: DO] [to prevent and combat offences established under this Convention: CA]: [delete chapeau: YE]

(a) Technical assistance [, transfer of technology: IR] and capacity-building [among other forms of assistance: DO] shall be carried out in an inclusive [, equal, transparent and sustainable: CN, AU] [and voluntary: MX, UK, AU] manner ~~{[and include all: MX, JP] [(nations: MX, UY, JP) States Parties: UY, CO, NO, CN, UK, SN, AR, YE, VE, PE]: CH}~~, with particular attention given to [developing countries] [including small island developing States: CV, TO, VU] [in need of assistance: JP] [and landlocked developing States: PY] [Countries in special situations, in particular African countries, least developed countries, landlocked developing countries and small island developing States: UK] ~~[-and all relevant stakeholders: African Group, CN, AR, YE, VE, SY;]; [delete subparagraph: CARICOM] [with particular attention given to developing countries as well as the capacities of each State: AR]~~

(b) Each ~~[beneficiary State Party: African Group, CN, VE, SY, PE; partner: UK]~~ shall [to the extent it is able: UK] determine its own priorities, based on [an assessment of the: UY] ~~[country-specific situations]~~ its specific needs: African Group,

EG] and requirements[. Technical assistance and capacity-building shall include transfer of technology, necessary equipment's, as appropriate, in order to prepare the grounds for effective implementation of the Convention: IR; against – US] [and based on the principle of national ownership: CO]; [delete subparagraph: CARICOM]

[ (b bis) Technical assistance and capacity-building shall include transfer of technology, necessary equipment's, as appropriate, in order to prepare the grounds for effective implementation of the Convention.: IR; against - EU & mS, NZ]

[ (c) Initiatives shall follow a (~~comprehensive and~~: AU systematic approach that includes multiple levels and dimensions (technical, human, organizational, governmental and legal [judicial: DZ] aspects), [builds on: YE, SY] [the strengthening and improvement of: UY] [existing capacities: YE, SY] [and ensures (ownership: BR) sustainability, transparency (progressiveness.: MX) and accountability: RU, CN, YE, ZA, SY, NI] [and the transfer of turnkey technologies: CM]. [delete subparagraph: NG, BF, CARICOM, EG] [in order to combat crime and increase the effectiveness of combatting it: SY] (delete paragraph): EG]

[ (c bis) Technical assistance and capacity-building may include the transfer of technology, specialized equipment, surveillance means, and other material support, with special focus on developing countries.: PK; against - EU & mS, NZ]

(c ter) Encourage the private sector, academia, and civil society to contribute to the provision of technical assistance and capacity building to other States Parties, particularly those in need of support.: PK]

[ (c bis) No preconditions shall be attached to technical assistance and capacity-building: CN, VE]

[ (c bis) Technical assistance and capacity building shall be focused on results and ensuring a lasting impact on the prevention and combatting of the offences established in accordance with the Convention.: UK]

(c bis). The measures taken under this chapter shall be without prejudice to existing technical assistance or capacity building commitments or to other current or future cooperation arrangements at the bilateral, regional or international levels.: NZ, TO, FJ]

*Article 86 alt. General principles of technical assistance [(and cyber/ICT) capacity building: TH] [and capacity-building: UK, CL]*

[support: CA; against – US]

[1 alt. States Parties shall be guided by general principles, including the following, with regard to the provision of technical assistance and capacity building to prevent and combat the offences established in accordance with this Convention:

(a) Capacity-building should be a sustainable process, comprising specific activities by and for different actors.

(b) Specific activities should have a clear purpose and be results focused, while supporting the objectives of the convention.

(2) quarter Capacity-building activities should be evidence-based, politically neutral, transparent, accountable, and without condition) Capacity-building (is a voluntary act of both the donor and the recipient and: NZ) should be undertaken with full respect for the principle of State sovereignty.

quarter Access to relevant technologies may need to be facilitated.

(f) Capacity-building should be based on mutual trust, demand-driven, correspond to nationally identified needs and priorities, and be undertaken in full recognition of national ownership.

(g) Partners in capacity-building participate voluntarily.

(h) As capacity-building activities should be tailored to specific needs and contexts, all parties are active partners with shared but differentiated responsibilities.

including to collaborate in the design, execution and monitoring and evaluation of capacity-building activities.

(i) The confidentiality of national policies and plans should be protected and respected by all partners.

(j) Capacity-building should respect human rights and fundamental freedoms, be gender sensitive and inclusive, universal and non-discriminatory.

(k) The confidentiality of sensitive information should be ensured.

1 bis. States Parties shall endeavour to leverage the expertise of and cooperate closely with other States Parties, academia, civil society and the private sector, with a view to enhancing the effective implementation of this Convention.

1 ter. The measures taken under this chapter shall be without prejudice to existing technical assistance or capacity building commitments or to other current or future cooperation arrangements at the bilateral, regional or international levels.: NZ]

Article 87. ~~[Training-Capacity-building and: AU, ZW, FJ]~~ and technical assistance  
[and capacity-building: UK]

1. States Parties shall, according to their capacity, ~~[consider-affording]~~afford: CO, YE, VE] one another the widest measure of technical assistance and capacity-building, ~~[especially for the benefit of (developing countries)~~Countries in special situations, in particular African countries, least developed countries, landlocked developing countries and small island developing States: UK; against – US): US] ~~[in need of assistance: JP]~~ [and all other non-state stakeholders,: CM] in their respective plans and programmes to prevent and combat [cybercrime] ~~[offences committed with: RU, NI]~~ the use of information and communications technologies (for criminal purposes: RU, NI)] [offences established under this Convention: CA], including [financial and: UY, TH] ~~[material support: US, AU]~~ [, technical equipment: IR] [, transfer of technology, where possible: PK, CN – against: NZ], training and other forms of assistance and the mutual exchange of relevant experience and specialized knowledge [to address challenges: PK], which will [reinforce global partnership and: CM] facilitate international cooperation between States Parties [in this field: RU] ~~[in the fight against prevention and combat of: CO]~~ (preventing and combatting: CARICOM) (and prevention of: EU & mS) [cybercrime] [the use of information and communications technologies for criminal purposes]: US [under this Convention: ID] [in this field and respecting the sovereignty and integrity of States Parties: NI].

[1 alt. 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 and the mutual exchange of relevant experience and specialized knowledge, which will facilitate for the prevention, detection, investigation and prosecution of the offences covered by this Convention.: AU, NZ, CA, US, SG, FJ]

2. States Parties ~~[shall may: NO, ZW]~~ [upon internal assessment of and: BR] to the extent necessary, [and according to their capacity: CH] initiate, develop, implement or improve specific training programmes [, such as secondments and exchanges of staff,: SG] for their personnel responsible for the [countering,: YE] prevention, detection, investigation [, analysis: MX, ZA, NA] and prosecution [and adjudication: CARICOM, IN] of the offences ~~[covered by this Convention]~~ committed with the use of information and communication technologies: RU, NI; against – US] [investigation to cover the full spectrum of capacity building: African Group]. Such programmes [which shall take into account the need to consider human rights and gender-sensitive issues: SG] ~~[may could: US, TO]~~ include [inter alia: US] [training: PK, CO, VE] secondments and exchanges of staff. Such programmes ~~[shall could: EU & mS, US, CM, TO, UK, SG; may: CA]~~ [deal (include: CM) (consider: AU)], ~~[(in particular inter alia: CO, US, TO) and to the extent permitted by domestic law: CA]~~, with [topics such as: CA] the following:

(a) Methods and techniques [and best practices: CA] used in the prevention, [suppression: RU; against – US] detection, [analysis: African Group] investigation and prosecution [adjudication and sanction: DZ; against – US] of the offences [established under this Convention: CA] ~~[(covered established: ZW) by this Convention]~~ committed with the use of information and communication technologies: RU, NI; against – US] [including digital forensic investigations: PK];

(b) Building capacity in the development and planning of strategic policies and legislation to prevent and combat [cybercrime] [the use of information and communications technologies for criminal purposes] [offences established under this Convention: CA] [offences committed with the use of information and communication technologies: RU, PK, NI; against – US]; [move to first: YE]

[(b alt.) Building capacity in the development and planning of strategic policies and legislation to prevent and combat [cybercrime] [the use of information and communication technologies for criminal purposes], including methods for mainstreaming a gender perspective in policymaking and legislation to prevent and combat such crime: TH (merging subparagraphs (b) and (n)); against – CA]

(c) Techniques used by persons suspected of involvement in offences ~~[(covered by established under: CA]~~ this Convention ~~[- and appropriate countermeasures: UY, CO, AR];~~ [delete subparagraph: US, KR, AU] [retain subparagraph: EG, MY]

[(c alt) Building capacity to prevent, detect, and investigate offenses committed with the use of information and communication technologies, including techniques used by criminals to gain unauthorized access, hide, or disguise identities, spread malware or engage in other forms of cyberattacks, and commit online fraud and financial crimes: PK; against – CA]

[(c bis) Appropriate countermeasures and technical skills for preventing, detecting, and investigating offenses committed with the use of information and communication technologies, including cooperation with service providers: PK; against – CA]

[(c ter) Building prevention capacity in collaboration with international organizations such as the International Criminal Police Organization for prevention, suppression, detection, investigation, and prosecution of the offences committed with the use of information and communication technologies: PK, CN]

(2) ~~—~~ (d) Building capacity in the collection [and recording: MX, AU] [preservation: CA] of evidence, in particular electronic evidence, ~~[(including (the maintenance of the chain of custody of its: RU) custody: US, NI)]~~ and forensic analysis; [retain subparagraph: EG, MY]

[(d alt) Building capacity in the collection and preservation of evidence, in particular electronic evidence, including the maintenance of the chain of custody, forensic analysis, and the use of evidence-gathering and investigative methods: JP, US]

(e) Building capacity in the preservation and sharing of electronic evidence, including ~~[(the use of: US)]~~ evidence ~~[- gathering collection: ID]~~ [in electronic form: IN] and investigative methods; [merge with d – JP, KE, YE, CA] [delete subparagraph: KR] [retain subparagraph: EG, MY]

(f) The training of competent authorities in the preparation of requests for mutual legal assistance [, technical assistance that facilitates timely extradition: UY, TH; against – US] and other means of cooperation that meet the requirements of this Convention, [especially including: CO] for the collection, preservation and sharing of [electronic evidence] [including evidence in electronic form: IN] [and disposal of confiscated proceeds of crime: CO], ~~[(which may be: US)]~~ [(supported: US)-assisted: RU, NI] ~~[(by the United Nations Office on Drugs and Crime: EU & mS, CO, US, AU)]~~ [and other relevant international and regional organizations: IR] [, 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: UY, TH] [retain subparagraph: EG, MY];

[ (g) Modern law enforcement equipment and techniques and the use thereof ~~including electronic surveillance, (controlled deliveries and undercover operations:~~ US); RU, NI] ~~[delete subparagraph: EU & mS, UK, CH, TO, CA, AU]~~ [retain subparagraph: EG, MY];

(h) The tracing of communications and virtual assets for the purposes of criminal investigations (prosecution and adjudication: DZ); ~~[delete subparagraph: CH, CA]~~ [retain subparagraph: EG, MY]

(i) The prevention, detection and monitoring of the movements of proceeds deriving from the commission of the offences [covered by this Convention committed with the use of information and communication technologies: RU, NI], property [and assets: PK], equipment or other instrumentalities; ~~[delete paragraph – CA, US]~~

[ (i alt) Detection and monitoring of the movements of proceeds of cybercrime, including methods used for the transfer, concealment or disguise of such proceeds, property, equipment or other instrumentalities:: US, CA]

[ (i alt) The 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:: JP, HS; against – US]

(j) Methods used for the transfer, concealment or disguise of proceeds deriving from the commission of the offences [covered by this Convention committed with the use of information and communication technologies: RU, NI; against – US], property, equipment or other instrumentalities, ~~[as well as methods used in combating money laundering and other (financial/economic: CO) crimes: JP];~~ [merge with i – JP, YE, KR] ~~[delete par – NO, CA, US; retain – MY, NA]~~

(k) Appropriate and efficient legal [judicial: DZ] and administrative mechanisms and methods for facilitating the [(freezing.: CO; against – US) (seizure: CARICOM) (and.: CO) (confiscation: CARICOM, SY) (, return: CO, CARICOM, SY; against – US) and disposal: CO; against – US] of proceeds of offences ~~(covered/established: US) by this Convention committed with the use of information and communication technologies: RU, NI]~~ [delete paragraph – CA];

~~[— (l) — Methods used in the protection of victims and (cooperating: US) witnesses [and informants: PK] — (who cooperate with (law enforcement and: RU, PK, NI) judicial authorities:: NO): EU & mS, UY, US]~~ delete sub-paragraph: CN; retain – MY]

~~[— (m) — (The (effective: CH) protection of (human rights, including the protection of): ZW) — (victims and witnesses, women, children, elderly and (vulnerable groups: EY): CN) privacy (and personal data: US) — (effective return of assets: CN) and (from arbitrary or unlawful interference and: US) respect for due process]~~ respect for the right to the protection of the law to arbitrary or unlawful interference with the privacy and for the right to fair trial:]HS) while preventing and combating offences covered by this Convention; delete sub-paragraph: RU, SG, PK, NG, TZ, NI, NA; retain – CR, MY, PE]

[merge (l) and (m): CO]

[ (m alt) The respect for the right to the protection of the law to arbitrary or unlawful interference with the privacy and for the right to fair trial while preventing and combating offences covered by this Convention:: HS]

(n) Methods for ~~(mainstreaming a gender~~ gender mainstreaming including integrating the: CA) perspective (of diverse groups in vulnerable situations: CA; against – EG) into policymaking, legislation (and: CA) programming (, in accordance with domestic law: NG) (to prevent and combat cybercrime: JP) (including in the development and provisions of technical assistance activities: CA); ~~delete subparagraph: IR, NG, RU, SG, PK, HS, BF, TZ, SY, NI, CN; retain – ZA, CR, ZW, PE]~~

[ (n alt) Methods for mainstreaming methods that empowers women and promotes equal participation of men and women in policymaking, legislation and programming:: NA]

[~~(n alt)~~ Methods for mainstreaming the vulnerable groups perspective, in particular women, children and the elderly, into policymaking, legislation and programming: MY; against – EG]

(o) Training in relevant substantive and procedural law, and law enforcement investigation [~~and prosecution: DZ~~] powers [~~and adjudicating: DZ~~], as well as in national and international regulations and in languages.

[~~(o alt)~~ Training of staff on issues related to domestic and international rules governing the combat against crime in the field of information and communication technologies, and language training.: RU, NI; against – CA, US]

[~~(o bis)~~ Mechanisms to promote awareness raising activities in favour of children, youths, women, civil society organizations, journalists, communities, refugees, migrants and their family members, (~~vulnerable people: EG~~) and other internet users, on the risks and benefits of the use of information and communications technologies: CM]

[~~(o ter)~~ Member States shall promote technical assistance in the implementation of regulatory mechanisms for the responsible use of digital financial assets and digital currencies.: CM; against – CA, US]

[2 bis. States Parties shall assist one another, upon request, in the implementation of the provisions established in Article 87] 2) (a) to (o): CO; against – US]

3. States Parties shall [~~assist–consider assisting: US~~] [~~one another~~each other: CARICOM] in [~~developing,: ID~~] planning and implementing research and training programmes designed to share expertise in the areas referred to in paragraph [~~42: JP, CARICOM~~] of this article, and to that end shall also [~~consider: US~~], when appropriate, use regional and international conferences and seminars to promote cooperation and to stimulate discussion on problems of mutual concern [~~including the special problems and needs of developing countries and countries with economies in transition: HS~~].

4. States Parties shall [~~consider–assisting~~assist: CO] [~~one another~~each other: CARICOM], upon request, in conducting evaluations, studies and research relating to the types, [~~evolution, prevalence, trends: PK, CO~~] causes and effects [~~and costs: CARICOM~~] of offences covered by this Convention [~~committed in their respective territories,: CO~~] with a view to developing, [~~with the (voluntary: MX, CR)~~]participation of the competent authorities and main stakeholders, including civil society and the private sector: CN, YE], [~~strategies and action plans~~appropriate responses: CO] to prevent and combat those offences. [~~delete paragraph: US~~]

[5. States Parties shall (~~promote~~consider promoting: US) (~~and to the extent possible, support: CA~~) training and technical assistance that facilitates timely extradition and [~~extradition requests and: RU, PK, NI; against – US~~] 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.: ~~delete paragraph: UY, AR; retain - MY~~]

[5 bis. State Parties make efforts to promote gender equality and the empowerment of women and girls in all their diversity in the development and delivery of technical assistance measures.: CA; (delete): EG]

6. States Parties [~~shall~~are encouraged to: EU & mS; may: CA, US; retain original: CO] strengthen, to the extent necessary, efforts to maximize the [~~synergies between, and: CO~~] effectiveness of operational and training activities in international and regional organizations and in the framework of relevant bilateral and multilateral agreements or arrangements.

7. States Parties [~~are strongly encouraged to~~shall: CARICOM, CA, US, TZ] consider establishing voluntary mechanisms with a view to contributing financially to the efforts of [~~developing countries~~] [~~Countries in special situations, in particular~~]



African countries, least developed countries, landlocked developing countries and small island developing States: UK] [and landlocked developing States: PY] to [implement-apply: CARICOM] this Convention through technical assistance [and capacity-building: UK] programmes and capacity-building projects.

[7 alt. States Parties shall consider making the best endeavours to establish voluntary mechanisms and make financial contributions directly and through the United Nations Office on Drugs and Crime for the purpose of supporting the implementation of the Convention through technical assistance, capacity-building projects, and programmes, particularly for developing countries.: UY; against – CA, US]

[8. States Parties that (have-are developed countries with: CN) more-advanced capabilities and infrastructure in the field of [cybercrime] [(combatting the offences committed with: RU, NI) the use of information and communications technologies (for criminal purposes: RU, NI) (shall should: CN) (assume responsibilities commensurate with those capabilities when providing assistance to other States (should strive to provide assistance: CN)], in particular (developing countries, [Countries in special situations, in particular African countries, least developed countries, landlocked developing countries and small island developing States:]UK) [and landlocked developing States: PY] and when providing support and advice and transferring [technology, material support and: PK] knowledge to them in the area of countering such crime.: delete paragraph: EU & mS, JP, CA, US, KR, SY, UK, AU; retain – CO, EG, TZ; MY]

9. States Parties [shall entrust the United Nations Office on Drugs and Crime with the task of coordinating and providing specialized technical assistance to States Parties, shall take into consideration the coordinating role of the United Nations Office on Drugs and Crime and other relevant entities in providing specialized technical assistance (and capacity building: UK) to State Parties: EU & mS, AU] upon request, in collaboration with other international and regional organizations [including the International Criminal Police Organization: PK], as appropriate, with a view to promoting the implementation of programmes and projects to prevent and combat offences covered by this Convention. [delete par.: CO, US, IN, KR, UK; retain – VE, MY]

[10. Each State Party is (strongly: RU, NI) encouraged to shall: CARICOM, UK) (consider making make: CO, CARICOM) voluntary contributions to (the United Nations Office on Drugs and Crime relevant initiatives and mechanisms: CO) for the purpose of fostering, through the Office, programmes and projects (in developing countries: CARICOM) with a view to implementing this Convention through technical assistance and capacity building.: UY, US, IN; retain – TZ, MY]

*Article 88. [Collection of: IN] Exchange [and analysis: IN] of information on [cyber crime] [the use of information and communications technologies for criminal purposes] [original title: US]*

1. Each State Party shall consider analysing, [in consultation with relevant experts.: CO] [including, on a voluntary basis, those from civil society and the private sector.: MX, CR] trends in its territory with respect to offences established in accordance with this Convention, as well as the circumstances in which such offences are committed. [delete paragraph: SY]

2. The States Parties shall consider developing and sharing with each other and through international and regional organizations statistics, analytical expertise and information concerning [cybercrime] [(offences committed with: RU, NI) the use of information and communications technologies (for criminal purposes: RU, NI)], [with a view to developing, insofar as possible, common (definitions approaches: UK), standards and methodologies.: CO, US] including best practices to prevent and combat [such offences the offences established in accordance with the convention: UK]. [For that purpose, States Parties may exchange information and share

international alerts through the International Criminal Police Organization.: IR; against – US]

3. Each State Party shall ~~[monitor]~~ consider monitoring: MY, JP, HS, CARICOM, US, JP, UK] its policies and ~~[practical]~~ actual: CARICOM, US] measures to prevent and combat offences ~~[(covered)]~~ established: US) ~~by this Convention committed with the use of information and communication technologies: RU, PK, CN, NI; against – US]~~ and ~~[make-making: JP]~~ assessments of their effectiveness and efficiency. ~~[delete paragraph: BF, SY]~~

4. States Parties shall [, to the extent permitted by domestic law: CO] ~~[consider exchanging]~~ exchange: CO] information on legal, [judicial: DZ] policy and technological developments related to [cybercrime] ~~[(offences committed with: RU, PK)]~~ the use of information and communications technologies ~~(for criminal purposes: RU, PK)]~~ and the [gathering-collection: ID] of evidence in electronic form. [move to 1]

[5. Member States are encouraged to establish a secured and collaborative information exchange platform which could be administered by a competent body to ensure effective sharing of information related to cyber threats, corrective measures and good practices in preventing, detecting and countering emerging cyber threats.: CM; against – US]

Article 89. [Other measures.: RU; against – US] *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 ~~[established in accordance with this Convention committed with the use of information and communication technologies: RU, PK, NI; against – US]~~ [on society in general and, (in particular: ZW), on sustainable development (in particular: ZW) : CO]. ~~[delete paragraph: UK]~~

[2. In providing and receiving technical assistance [and transfer of technology: IR – against: NZ], States Parties [shall(, where appropriate: SG) take into full consideration the principles of (shared responsibility: CO) (national: CO) ownership, sustainability, [transparency and accountability: RU, NI] (sovereign equality of States, data sovereignty: PY) through, inter alia: CN; retain – MY]:

(a) Effectively cooperating with other States Parties and with various stakeholders, regardless of their level of development, as appropriate;

(b) Determining priorities based on country-specific (priorities: CO) situations and needs;

(c) Ensuring the sustainability and enduring impact of technical assistance measures by building on (national: CO) existing capacities;

(d) Transparently communicating about technical assistance measures, as appropriate.: ~~delete paragraph – African Group, CARICOM, US, KR, SY, CA, FI, UK; retain – MY]~~ [move to 86 – AU]

[ (d bis) Ensuring coordination and visibility to avoid duplication of efforts of multilateral and bilateral programmes.: DO; against – US]

~~[delete paragraph: EG]~~

3. States Parties ~~[shall]~~ are strongly encouraged to: EU & mS, NO] make concrete efforts, [in accordance with their domestic laws and regulations: IR] to the extent possible and [, where appropriate: SG] in coordination with each other, as well as with international and regional organizations and ~~[civil society: CARICOM, KE], [(noting in particular the central role of including: UK)]~~ ~~the United Nations Office on Drugs and Crime: RU, CO, NI; retain – CARICOM)~~ in this regard:

(a) To enhance their cooperation at various levels with other States Parties, in particular developing countries, [including landlocked developing States: PY] with a view to strengthening their capacity to prevent and combat the offences ~~[established in accordance with this Convention]~~ committed with the use of information and communication technologies: RU, PK, NI; against – US];

(b) To enhance [technical; :BR] financial ~~[and material (and technological: IR): US]~~ assistance to support the efforts of other States Parties, in particular developing countries, [and landlocked developing States: PY] in effectively preventing and combating the offences ~~[established in accordance with this Convention]~~ committed with the use of information and communication technologies: RU, PK, NI and to help them to implement this Convention [successfully: AU];

(c) To provide technical assistance to other States Parties, in particular developing countries [and landlocked developing States: PY] ~~and countries with economies in transition; : CARICOM~~ 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.: US, AU]~~ [States Parties may also give special consideration, in accordance with their domestic law and the provisions of this Convention, to contributing to that account a percentage of the money or of the corresponding value of proceeds of crime or property confiscated in accordance with (the provisions: CARICOM) of this Convention: EU & mS, IR, KR, AU; retain – MY];

(d) To encourage ~~[(and persuade: TH, CR, SY, JP, UK) other States; :UY; CARICOM, PE]~~ [civil society, including academia, (and education; : RU) the media and non governmental organizations; : IR] international organizations, financial institutions and the private sector [, service provider: PK], as appropriate, to ~~[join them in or otherwise: UY]~~ contribute to [the: UY] efforts [of States: UY], including in accordance with this article, in particular by providing more training programmes and modern equipment to developing countries [and landlocked developing States: PY] 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; : RU, IR]~~ avoiding duplication of effort and making best use of any lessons learned.

4. 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 [and landlocked developing States: PY] and countries with economies in transition.

~~[5.—[Subject to its domestic laws; : African Group, EG] States Parties shall endeavour to leverage the expertise of and cooperate closely with other States Parties, academia, civil society and the private sector, [service provider: PK] with a view to enhancing the effective implementation of this Convention.: RU, CM; retain – MY]~~ [move to article 86: AU, UK]

[6. 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 [transfer of technology to augment: PK – against: NZ] technical capabilities ~~(with the aim of: CO) (establishing common minimum standards among States Parties to: RU, CO)]~~ [eradicate–eradicating: RU, PK] safe havens for the offences ~~[established in accordance with this Convention]~~ committed with the use of information and communication technologies: RU, PK] and strengthen the fight against ~~[[cybercrime] [the use of information and communications technologies for criminal purposes]]~~ [them: RU] delete paragraph: CA, US, UK; retain – EG, MY].

7. ~~[To the extent possible; : CO]~~ 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. [delete paragraph – FJ]

8. 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, prosecution [and control: US, ID, KR] [of the offences: KR] [–established in accordance with this Convention committed with the use of information and communication technologies: RU; against – US].

9. Each State Party shall, where appropriate, inform the Secretary-General of the United Nations of the name and address of the authority or authorities that can assist other States Parties in accordance with this article. [delete paragraph: US, CA, FJ; retain – MY]

10. States Parties [(and other implementing organizations: RU, JP, YE) and organizations also involved in the implementation of the Convention: RU; against – US] shall[, where appropriate: SG] ensure that the assistance efforts undertaken in support of capacity-building are subject to appropriate and transparent monitoring and evaluation processes to assess their effectiveness. [move to article 86: AU, FJ, UK] [delete – CARICOM, US, TZ; retain – MY]

## **Chapter V alt.** **Technical assistance, including information exchange**

*Article 86. General principles of technical assistance and [cyber / ICT: AU, TH, VU] capacity building*

Support article: VU Support article: VU, CA, NZ, UK, EU & mS, FJ

b. Article 86. General principles of technical assistance and /cyber / ICT: AU, TH, FJ/ capacity building. States Parties shall be guided by general principles, including the following, with regard to the provision of technical assistance and capacity building to prevent and combat the offences established in accordance with this Convention:

### **Process and purpose**

(a) Capacity-building should be a sustainable process, comprising specific activities by and for different actors.

(b) Specific activities should have a clear purpose and be results focused, while supporting the objectives of the convention.

(c) Capacity-building activities should be evidence-based, politically neutral, transparent, accountable, and without conditions.

(d) Capacity-building (is a voluntary act of both the donor and the recipient and: NZ) should be undertaken with full respect for the principle of State sovereignty.

(e) Access to relevant technologies may need to be facilitated.

### **Partnerships**

(f) Capacity-building should be based on mutual trust, demand-driven, correspond to nationally identified needs and priorities, and be undertaken in full recognition of national ownership.

(g) Partners in capacity-building participate voluntarily.

(h) As capacity-building activities should be tailored to specific needs and contexts, all parties are active partners with shared but differentiated responsibilities, including to collaborate in the design, execution and monitoring and evaluation of capacity-building activities.

(i) The confidentiality of national policies and plans should be protected and respected by all partners.

#### **People**

(j) Capacity-building should respect human rights and fundamental freedoms, be gender sensitive and inclusive, universal and non-discriminatory.

[ (j alt) capacity building should be carried out in an inclusive manner, with particular attention given to developing countries, including small island developing States;: TO]

(k) The confidentiality of sensitive information should be ensured.

2. States Parties shall endeavour to leverage the expertise of and cooperate closely with other States Parties, academia, civil society and the private sector, with a view to enhancing the effective implementation of this Convention. (moved from 89 (5))

3. States Parties and other implementing organizations shall ensure that the assistance efforts undertaken in support of capacity-building are subject to appropriate and transparent monitoring and evaluation processes to assess their effectiveness. (moved from 89 (10))

(4. The measures taken under this chapter shall be without prejudice to existing technical assistance or capacity building commitments or to other current or future cooperation arrangements at the bilateral, regional or international levels.: NZ, TO)

#### *Article 87. Capacity building and technical assistance*

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 and the mutual exchange of relevant experience and specialized knowledge, which will facilitate for 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. Such activities referred to in paragraphs (1) and (2) may include, to the extent permitted by domestic law, with the following:

(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] [the use of information and communications technologies for criminal purposes];

(c) Techniques used by persons suspected of involvement in offences covered by this Convention, and appropriate countermeasures;

(d) Building capacity in the collection and recording of evidence, in particular electronic evidence, including the maintenance of the chain of custody and forensic analysis;

(e) Building capacity in the preservation and sharing of electronic evidence, including the use of evidence-gathering and investigative methods;

(f) The 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 electronic evidence, which may be supported by the United Nations Office on Drugs and Crime;

(h) The tracing of communications and virtual assets for the purposes of criminal investigations;

(i) The 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;

(j) Methods used for the transfer, concealment or disguise of proceeds deriving from the commission of the offences covered by this Convention, property, equipment or other instrumentalities, as well as methods used in combating money-laundering and other financial crimes;

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

(l) Methods used in the protection of victims and witnesses who cooperate with judicial authorities;

(m) The effective protection of human rights, including the protection of privacy and personal data and respect for due process while preventing and combating offences covered by this Convention;

(n) Methods for mainstreaming a gender perspective into policymaking, legislation and programming;

(o) Training in relevant substantive and procedural law, and law enforcement investigation powers, as well as in national and international regulations and in languages.

4. States Parties shall (~~assist~~ consider, as resources permit, assisting: NZ) one another in planning and implementing research and training programmes designed to share expertise in the areas referred to in paragraph 1 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.

5. 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 main stakeholders, including civil society and the private sector, strategies and action plans to prevent and combat those offences.

6. States Parties shall(~~as~~ appropriate and as resources permit,: NZ) 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.

7. States Parties shall(, as appropriate: NZ) strengthen, to the extent necessary, efforts to maximize the effectiveness of operational and training activities in international and regional organizations and in the framework of relevant bilateral and multilateral agreements or arrangements.

8. States Parties are strongly encouraged to 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.

10. States Parties shall entrust the United Nations Office on Drugs and Crime with the task of coordinating technical assistance to States Parties, upon request, in collaboration with other international and regional organizations, civil society and non-governmental organisations, as appropriate, with a view to promoting the implementation of programmes and projects to prevent and combat offences covered by this Convention.



*Article 88. Exchange of information*

1. Each State Party shall consider analysing, in consultation with relevant experts, including civil society, academia, industry and non-governmental organisations, trends in its territory with respect to offences established in accordance with this Convention, as well as the circumstances in which such offences are committed.
2. The States Parties shall consider developing and sharing with each other, including through international and regional organizations, statistics, analytical expertise and information concerning [cybercrime] [the use of information and communications technologies for criminal purposes], with a view to developing, best practices to prevent and combat such offences.
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, and increase exchanges with regards to best practices for [cyber / ICT] technical assistance and capacity building. (moved from 89 (4))
4. Each State Party shall monitor its policies and practical measures to prevent and combat offences covered by this Convention and make assessments of their effectiveness and efficiency.
5. States Parties shall consider exchanging information on legal, policy and technological developments related to [cybercrime] [the use of information and communications technologies for criminal purposes] and the gathering of evidence in electronic form.

*Article 89. [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 established in accordance with this Convention on society in general and, in particular, on sustainable development.
2. States Parties shall make concrete efforts, to the extent possible and in coordination with each other, as well as with international and regional organizations and civil society, including the United Nations Office on Drugs and Crime:
  - (a) To enhance their cooperation at various levels with other States Parties, in particular developing countries, with a view to strengthening their capacity implement this Convention;
  - (b) To enhance financial and material assistance to support the efforts of other States Parties, in particular developing countries, to implement this Convention successfully;
  - (c) To provide technical assistance to other States Parties, in particular countries in special situations, in particular African countries, least developed countries, landlocked developing countries and small island developing States, 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. States Parties may also give special consideration, in accordance with their domestic law and the provisions of this Convention, to contributing to that account a percentage of the money or of the corresponding value of proceeds of crime or property confiscated in accordance with the provisions of this Convention;
  - (d) Each State Party is strongly encouraged to 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. (moved from 87 (10))

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

(f) 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.: AU]

## **Chapter VI**

### **Preventive measures**

#### *Article 90. General provisions on prevention*

[1. Each State Party shall endeavor to develop and evaluate national projects and, in accordance with ~~[the fundamental principles of its legal system]~~ domestic law: CM] [and with international human right law: CH], establish and promote, including through the participation of relevant stakeholders, effective and coordinated policies and best practices aimed at the prevention of [cybercrime] ~~[(committed with: RU, NI)]~~ the use of information and communications technologies ~~(for criminal purposes: RU, NI)]~~ [the offences set out in this convention: AU]. [move after par. 2: CN] [replace paragraph with articles 5(1) and 5(2) UNCAC] (delete paragrph):)GH]

2. States Parties ~~[shall may: AR, CL]~~ endeavour, in accordance with fundamental principles of their domestic law, and ~~[(with (applicable: LI, CH) international human rights [law, treaties: TH] CARICOM, EG, PK, TZ, DZ, IR)]~~ in full respect of human rights and fundamental freedoms: EU & mS, LI, NO, GE; delete: PK] [and with international human right law: CH] to reduce existing or future opportunities for [cybercrime] [the use of information and communications technologies for criminal purposes], through appropriate legislative, administrative or other measures. Preventive measures [are distinct from criminal procedure measures and: CH] may focus on:

[align with UNTOC 31: DZ]

[2 alt. Each State Party shall endeavour to develop and promote effective measures to prevent offences committed with the use of information and communication technologies. Such measures may focus on:: RU, NI]

[2 alt. States Parties shall endeavour, in accordance with fundamental principles of their domestic law and applicable international human rights law, develop and evaluate national projects, establish and promote, including through the participation of relevant stakeholders, effective and coordinated policies and best practices to reduce existing or future opportunities for [cybercrime] [the use of information and communications technologies for criminal purposes], through appropriate legislative, administrative or other measures. Preventive measures may focus on:: GH]

[2 alt. States Parties shall take appropriate measures, in accordance with their domestic law, to prevent and reduce opportunities for offences committed with the use of information and communication technologies. Such measures may include legislative and administrative actions, and shall be aimed at:: PL]

(a) Strengthening cooperation between law enforcement agencies and other relevant entities, ~~[in accordance with (national law; CARICOM, TZ.)TH]~~ [as appropriate, in accordance with fundamental principles of states domestic laws.: EG] especially those in the private sector, ~~{[in particular financial institutions.: EU & mS, GE, CH, TZ] [(as well as: EU & mS, RU) including: EU & mS] [in particular, the information and communications: TZ] [the technology sector: NO], [non-~~

~~governmental organizations: RU, IR] [service providers: IR] [community-based organizations: VE] [academia: RU] and the education sector, [as well as non-governmental organizations: RU, NI] in addition to the public in general, relating to matters involving the commission of offences covered by this Convention, [while ensuring that the burden on such entities is proportionate and that private sector entities (fully: RU) respect laws protecting rights of their users: CARICOM, DZ] (delete): EG};~~

[ (a alt) To strengthen cooperation between law enforcement agencies and relevant entities, in accordance with domestic law, including the private sector, in particular financial institutions, the technology sector, non-governmental organizations and the education sector, as well as the general public, on matters relating to the commission of offences covered by this Convention.: BF]

[ (a alt) Strengthening cooperation and information sharing between law enforcement agencies and private entities, such as financial institutions, technology companies, academia, non-governmental organizations, and other relevant civil society organizations, to prevent and combat offences covered by this Convention. Such cooperation shall aim at devising effective policies considering trends and risks and implementing preventive measures.: PK]

[ (a alt) [ (a alt) To strengthen cooperation between law enforcement agencies and relevant entities, in accordance with domestic law.: CM]

[ (b) [As appropriate, in accordance with fundamental principles of States domestic laws.: EG] Developing, facilitating and promoting public awareness activities, ~~[public information campaigns, public education programmes: EG]~~ and curricula and policies aimed at the prevention of [cybercrime] [the use of information and communications technologies for criminal purposes], including media and ~~[information-digital: AU, TZ]~~ literacy programmes targeting in particular ~~[vulnerable groups: EG, HS, BF, IR] [(people) (persons: AU) in vulnerable situations: HS, NO, VE, DO, AU] [such as (children, youth and elderly people: retain – IR): EU & mS, CARICOM, BF, VU, NO, DZ]. [Such information may be disseminated, where appropriate, through the mass media, and relevant programmes and policies shall include measures to promote public participation in preventing (and combating: CH) [cybercrime] [the use of information and communications technologies for criminal purposes] [the offences set out in this convention: AU]: LI] delete paragraph: PK];~~

[2 bis. Develop, facilitate, and promote public awareness policies and activities to inform the public of the prevalence, gravity, and evolving nature of the threat posed by the use of information and communications technologies for criminal purposes. Public awareness activities and campaigns shall be disseminated, where appropriate, through mass media, and such policies and activities shall include measures to promote public participation in preventing and combating the use of information and communications technologies for criminal purposes.:

(c) [As appropriate, in accordance with fundamental principles of States domestic laws.: EG] Issuing regular, ~~[non-binding advisories]~~ advice or information: AU] ~~[on incident prevention: RU, NI]~~ and sharing them with the public with a view to preventing [the offences set out in this convention: AU] ~~[cyber-: RU, NI]~~ incidents [in the field of information and communication technologies: RU] that could lead to criminal activities ~~[respecting the sovereignty and self-determination of States Parties: NI]; [delete subparagraph: CARICOM, VU, PK]~~

[ (c bis) Developing or strengthening support programmes for victims of cybercrime: EU & mS, HS]

[ (c ter) Issuing regular threat and cybercrime trend advisories to the public through various channels to help them mitigate the risk of falling victims to cybercrime.: DO]

[—(d)—[As appropriate, in accordance with fundamental principles of States domestic laws.: EG] ~~Enhancing (security of computer information: SN) (security in~~

~~the private sector;: SN) including through the promotion and development of standards and appropriate security procedures;: JP, CARICOM, SG, VU, PK, GE, CH]~~

[ (d alt) Develop appropriate security standards and procedures to strengthen information security in the private sector;: BF; against – US]

[ (d bis) Developing, facilitating, and promoting programmes and activities in order to discourage those at risk of committing cybercrime from becoming cyber offenders and to develop their skills in a lawful manner. State parties are encouraged to collaborate with academia, civil society, and the private sector in creating these programmes and activities.: EU & mS, TR, NZ, KR, NO, GE, MY, AO, NG, DO, US, CA, CL, CO, ZA, PK, EC, IL, ER, MZ, TH, CH, AU, LI, VU, TO, GH, CV, TZ, NG, JP, FJ]

[ (d bis alt) Develop, facilitate, and promote programmes and activities aimed at those equipped with particular cyber-related skills, with a focus on providing opportunities and develop their skills that encourage them to use such skills in a lawful manner. State Parties are encouraged to collaborate with academia, civil society, and the private sector in creating these programs and activities: TH]

(e) [As appropriate, in accordance with fundamental principles of States domestic laws,: EG] Encouraging enterprises within their jurisdiction to employ risk-based approaches to improve their resilience to the offences ~~[set out in this Convention in the field of information and communication technologies: RU, NI]~~ and to detect, respond to and recover from such incidents; ~~[delete subparagraph: CARICOM, LI, VU, PK, GE, US; retain original – EC, DO]~~

[ (e bis) Establishing classified tiered measures to provide multi-level protection schemes for cybersecurity with a view to better preventing cyber-attacks and the use of information and communication technologies for criminal purposes;: CN – against: NZ, US]

[ (e ter) Encouraging State Parties to take legislative and other measures as may be necessary, establish and improve relevant mechanisms, to require service providers in their respective territory to take active preventive measures, including reporting to the relevant competent authorities of suspicious cyber incident of a possible criminal nature: CN; against – US]

(f) [As appropriate, in accordance with fundamental principles of States domestic laws,: EG] Establishing policies of quality control of products to be applied in the protection of [computer systems] [information and communications technology systems/devices] ~~[before such products are released to public: RU, NI]; [delete subparagraph: JP, CARICOM, SG, LI, VU, PK, GE, DO, CH, DZ]~~

[ (f bis) Encouraging State Parties to take legislative and other measures as may be necessary, to require service providers in their respective territory to adopt technical measures to monitor and record network operation status and security incidents and retain related logs for no less than six months. Due consideration should be given to capacities of service providers when meeting such requirements;: CN; against – NZ]

~~[ (g) Developing strategies and policies to prevent and eradicate [(gender-based violence, in particular: HS, CM) violence against women and girls perpetrated by means of [cybercrime] [the use of information and communications technologies]] [technology-facilitated gender-based violence: AU], [(and hate crimes, any...: HS, CH, CM) in particular where perpetrated by means of: EU & mS, HS) [cybercrime] [(the use of: GH, NI) information and communications technologies], and suitable for (vulnerable groups: EG) ((people) (persons: AU) (groups: AR) in vulnerable situations: HS, AU, AR) (in line with domestic (legislation) (law: AU): NG) (such as the elderly and persons with disabilities: EU & mS; retain – AR);: RU, CARICOM, EG, BF, IR, DZ; retain – AR, GH]~~

[ (g alt.) Develop strategies and policies to prevent any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or

violence, in particular against women and children, and against any gender, religion, color, or identity.: PK; against – US]

[ (g alt.) Developing strategies and policies to prevent an eradicate gender-based violence and hate crimes, in particular violence against women and girls perpetrated by means of cybercrime, taking into consideration the special circumstances and needs of persons and groups in vulnerable situations.: AR]

[—(h)—[As appropriate, in accordance with fundamental principles of States domestic laws,: EG] Undertaking specific and tailored efforts to keep children safe online. This shall include domestic legal frameworks, practical arrangements and international cooperation arrangements to enable the (prevention,: AU) reporting, detection, investigation, prosecution and deterrence of child sexual abuse [child pornography: NA] and exploitation online [child online sexual exploitation: NA] (and coercion to suicide in children: KZ; against – US): CARICOM – retain original: NA] [Preventive measures shall include education of children about the risks of child [sexual] abuse and exploitation online, training organisations and professionals about child safe practices, awareness raising to educate and empower people to identify and report child [sexual] abuse and exploitation online, as well as the removal of child [sexual] abuse and exploitation material online.: A

(i) [As appropriate, in accordance with fundamental principles of States domestic laws,: EG] Building and investing in increasing domestic criminal justice capacity, including training and developing expertise among criminal justice practitioners, as part of national prevention strategies against [cybercrime] [(offences committed with: RU, NI) the use of information and communications technologies (for criminal purposes: RU, NI)]; [delete subparagraph: CARICOM, TH; retain – EC] [move subparagraph to (b): PK]

[—(j)—[As appropriate, in accordance with fundamental principles of States domestic laws,: EG] Information sharing among industry sectors (private sectors: CN) on trends and risks relating to [cybercrime] [(committed with: NI) the use of information and communications technologies for criminal purposes], including referrals to competent national authorities,: CARICOM, PK, TH] [merge with (k): GH]

[—(k)—[As appropriate, in accordance with fundamental principles of States domestic laws,: EG] Incident alerts and countermeasures regarding trends relating to [cybercrime] [(committed with: NI) the use of information and communications technologies for criminal purposes] distributed to the private sector.: CARICOM, PK, CH] [delete paragraph: US]

[ (k bis) Encourage States Parties to put in place regulatory mechanisms providing for "Due Diligence" measures that oblige service providers under their respective jurisdiction to publicize vulnerabilities detected in their various solutions and to take prompt action to correct them;

(ii) ensuring regular assessment of the security levels of critical cyber infrastructure.: CM; against – US]

[ (k ter) States Parties shall ensure that a “toll-free number” is set up, accessible to all 24/7 and at low cost, to report cybercriminal acts.: CM; against – US]

[ quater) Encourage states to include mechanisms in their legislation to regulate the marketing and export of cyber security technologies.: CM; against – US]

[2 bis. Each State Party shall consider analyzing, in consultation with the scientific and academic communities, trends in cybercrime in its territory, the circumstances in which cybercrime operates, as well as the professional groups and technologies involved. States Parties shall consider developing and sharing analytical expertise concerning cybercrime with each other and through international and regional organizations.: EU & mS, DO, AU; against – US]

[2 bis. Each State Party shall, in accordance with the fundamental principals of its legal system, establish effective and coordinated policies aimed at the prevention of [cybercrime] [the use of information and communications technologies for criminal purposes], and evaluate regularly and improve such policies, with the aim of ensuring effectiveness.: CN; against – AU, US]

[2 bis. The States Parties strive to improve the practice of preventive monitoring of the Internet space, expert and technical potential in this area in order to timely detect, suppress and investigate crimes recognized as such in accordance with this Convention, and to prosecute for these crimes. In doing so, States Parties shall take comprehensive measures to ensure the effective protection of human rights, including the protection of privacy and personal data, and the observance of due process in the prevention and suppression of offenses covered by this Convention.: KZ; against – US]

3. States Parties shall endeavour to periodically evaluate existing relevant national legal frameworks and administrative [and other: EU & mS] practices with a view to identifying gaps and vulnerabilities and ensuring their relevance in the face of changing threats posed by the offences [set out in this Convention] committed with the use of information and communication technologies: RU, NI]. [delete paragraph: CARICOM, VU; retain – TZ]

4. States Parties shall endeavour to gather national and regional prevention experiences to create a multilateral repository, administered by the United Nations Office on Drugs and Crime [and other relevant international organizations: IR], enabling the dissemination of good practices in the prevention of [cybercrime] [(offences committed with: RU, NI)] the use of information and communications technologies [(for criminal purposes: RU, NI)] in diverse contexts [while taking into account already existing international and regional mechanisms of such kind: LI]. The Office shall facilitate the sharing of best practices with regard to effective and successful preventive measures against [cybercrime] [the use of information and communications technologies for criminal purposes]. [delete paragraph: CARICOM, VU, AU]

5. States Parties shall [as appropriate,: DZ] [endeavour to: JP] collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. This [includes may include: UR] participation in international projects aimed at the prevention of [cybercrime] [(offences committed with: RU, NI)] the use of information and communications technologies [(for criminal purposes: RU, NI)].

[5 bis. 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] [the use of information and communications technologies for criminal purposes].: EU & mS, DO]

[5 bis. Each State Party shall consider the establishment of appropriate mechanisms for members of the public to report cybercrime to develop evidence-based understanding of the types and scale of cybercrimes impacting each Party and to inform competent authorities to better understand the ever-evolving threat environment.: AU]

*[Article 90 alt. General provisions on prevention]*

1. Each State Party shall endeavor to develop, implement and maintain effective, coordinated policies related to the prevention of the offences set forth in this Convention that promote the participation of society and reflect the principles of the rule of law. [support: CARICOM]

2. Each State Party shall take appropriate measures, within its means and in accordance with the principles of their domestic law, to promote the active participation of individuals and groups outside the public sector, such as non-



governmental organizations, academia, the media, victims, and the private sector, in the prevention of the offences set forth in this Convention. [support: CARICOM]

3. Each State Party shall endeavour, in accordance with principles of their domestic law, and with international human rights law, adopt measures to prevent offences set forth in this Convention. Preventive measures may include:

[ (a) Promoting cooperation between law enforcement agencies or prosecutors and other private entities including those mentioned in paragraph 2 in accordance with national law, for the purpose of preventing, offences covered by this Convention; – retain original article 90 paragraph 2(a): CARICOM]

(b) Promoting public awareness regarding the existence, causes and gravity of the threat posed by the offences set out in this Convention. Information may be disseminated where appropriate through the media, public education programmes and curricula. ~~[Due regard should be paid to reaching diverse (groups in vulnerable situations: EG; CARICOM).~~ Policies and programmes for preventing and combatting such crime shall include multi-stakeholder participation where appropriate;

(c) Encouraging the access to and dissemination of information, advice, guidance, and support available to help their societies, economies and citizens take practical steps to secure themselves against the offences set forth in this Convention. This could include distributing incident alerts and countermeasures on cybercrime trends to the private sector and information-sharing among industry sectors on cybercrime trends and risks.

(d) Developing strategies and policies to prevent and eradicate online gender-based violence, in particular violence against women and girls;

(e) Undertaking specific and tailored efforts to keep children safe online. This shall include domestic legal frameworks, practical arrangements and international cooperation arrangements to enable the (prevention,; AU) reporting, detection, investigation, prosecution and deterrence of child sexual abuse and exploitation online[, and the removal of child abuse and exploitation material: Preventive measures shall include education of children about the risks of child [sexual] abuse and exploitation online, training organisations and professionals about child safe practices, awareness raising to educate and empower people to identify and report child [sexual] abuse and exploitation online, as well as the removal of online child [sexual] abuse and exploitation material.: AU.]

(f) Preventing and detecting transfers of proceeds of crime and property related to the offences set forth in the Convention

4. Each State Party should endeavour to build and invest in increasing domestic criminal justice capacity, including training and developing expertise among criminal justice practitioners, as part of national prevention strategies against the offences set forth in the treaty.

5. Each State Party shall endeavour to periodically evaluate existing relevant legal instruments and administrative measures with a view to identifying gaps and vulnerabilities and ensuring their relevance in the face of changing threats posed by the offences set forth in this Convention.

6. Each State Party shall take appropriate measures to ensure that the relevant competent authority or authorities responsible for preventing and combating the offences set forth in this Convention are known to the public, and promote how to report, including anonymously, offences set forth in this Convention.

7. States Parties shall endeavour to 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 programmes and projects aimed at the prevention of the offences set forth in this Convention.: UK, NZ, CA, US, KR, UK, NG, IL, AU, EU & mS, FJ; against – IR]

Article 91. ~~[Authority or: RU, DO]~~ ~~[authorities Body or bodies: DO]~~ responsible for preventing ~~[and combating: EC, CH]~~ [cybercrime] [offences and other unlawful acts relating to the use of information and communications technologies for criminal purposes] [the crimes covered in this Convention: MX]

[retain original – CARICOM, PK, MW, MY, DZ, MR] [delete – UK, KR, NO, AU, CH, IL, CV, NZ]

1. Each State Party ~~[shall may: AR, CR]~~, in accordance with ~~[the fundamental principles of its legal system domestic (legislation) (law: AU): ZA]~~, ensure the existence of an authority or authorities, as appropriate, ~~[dedicated to: JP]~~ [preventing and ~~(combating: EC, CH)]~~ [that prevent and combat: JP] [cybercrime] [(offences committed with: RU) the use of information and communications technologies (for criminal purposes: RU)] [the crimes covered in this Convention: MX]. ~~[delete paragraph: EU & mS]~~

2. 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] [(offences committed with: RU) the use of information and communications technologies (for criminal purposes: RU)] [and combat the crimes covered in this Convention: MX]. [move to article 90: NO]

#### Article 92. Participation of society

[Delete article: NZ]

1. 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 individuals and groups outside the public sector, such as [civil society: DZ] ~~[(non-governmental: IR) [and educational: RU, CV] organizations, [academia educational institutions: NA): EG]~~, [the media: AR], the private sector, including the technology sector ~~[and financial institutions: EU & mS, GE]~~, and community-based organizations, [and individuals and group directly affected by: AU] in the prevention ~~[and combating: CH, AU]~~ of [cybercrime] [the use of information and communications technologies for criminal purposes] ~~[and to raise public awareness regarding the existence, causes and gravity of and the threat posed by (such crime offences in this field: RU) offences established in this Convention: NA)]~~ [such crime offences in this field: RU] offences established in this Convention: NA) [PK]. This participation should be strengthened by such measures as:

~~[(a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes; RU, EG, IR, US]~~

[(a alt.) Increasing transparency by ensuring effective public access to information, including on decision-making; RU]

[(a alt) Promoting transparency and public access to information, in accordance with domestic law, to enable public participation in decision-making processes; PK]

~~[(b) Ensuring that the public has effective access to information (has adequate: EU & ms, CH); RU, CO] [Ensuring that the public has effective 70 nformess 70nformationion available in accordance with their domestic laws; AR]~~

[(b) alt Participate in public information activities, in coordination public sector and other stakeholders; PK]

[(c) Undertaking public information activities, as well as public education programmes, including school [and (university educational institutions: NA) NO] curricula, [to reduce vulnerability to cybercrime victimization: AU] that contribute to non-tolerance of [cybercrime] [(offences committed with: RU) the use of information and communications technologies (for criminal purposes: RU)] retain original: PK];

(d) Respecting, promoting and protecting the freedom to seek, receive, publish[, access: CO] and disseminate information concerning [cybercrime] [(offences committed with: RU) the use of information and communications technologies (~~for criminal purpose: RU~~) [to the extent permitted by domestic laws and as enshrined in applicable international human rights law: AU]. ~~[That freedom may be subject to certain restrictions, but those shall only be such as are provided for by law and are necessary for:~~

~~— (i) Respecting the rights or reputations of others;~~

~~— (ii) The protection of national security, ordre public, public health or (morals: AR): RU, AU, CH]~~

(iii) For the purpose of criminal investigations, prosecutions, and judicial proceedings concerning criminal offences established in accordance with this Convention.: EU & ms]

[ (d bis) Encourage States Parties to put in place mechanisms to curb the phenomenon of "Disinformation" using "Fact Checking" tools.: CM; against – US]

[2. Each State Party shall take appropriate measures to ensure that the relevant competent authority or authorities responsible for preventing ~~[and combating: CH]~~ [cybercrime] [(offences committed with: RU) the use of information and communications technologies (~~for criminal purposes: RU~~), ~~[referred to in this Convention: EU & ms]~~ are known to the public, and shall provide access to such authorities, where appropriate, for the reporting, including anonymously, of any incident that may be considered a criminal offence ~~[covered by]~~ established in accordance with: TZ] this Convention. ~~(delete paragraph): PK]~~

[2 alt. Each State Party shall consider the establishment of appropriate mechanisms for members of the public to report cybercrime to develop evidence-based understanding of the types and scale of cybercrimes impacting each Party and to inform competent authorities to better understand the ever-evolving threat environment.: AU [move to art. 90: AU]

[2 bis. The rights provided for by the provisions of this article may be limited in accordance with domestic law and when necessary for the purposes of:

(a) Protecting the rights of natural and legal persons or their reputation;

(b) Protection of national security, public order, public health or morals.: RU]

[2 bis. Each Party shall enact or amend laws and regulations that, in accordance with their domestic legal system, facilitate the effective participation of the private sector including service providers in advancing the goals of ICTs crime prevention.: IR; against – US]

[2 ter. The private sector may participate in prevention programs in the as a cyber service provider, a cyber-business, or a specialized service for the prevention of cybercrime.: IR; against – US]

quater. Providers of cyber services, such as platforms, shall participate in authenticating real cyber actors, updating their identity information, and authenticating the legal competence of cyber actors, especially for sensitive processes and transactions with coordination with relevant domestic authorities of the State Party.: IR; against – US]

quinquies. Cyber businesses, in accordance with domestic laws, shall take measures in refusing to provide goods and services to customers or consumers without identity or with a false identity and refraining from cooperating with unauthorized businesses in any way.: IR; against – US]

*Article 93. Prevention and detection of transfers of proceeds of crime* [, property and assets: PK]

[delete article: EU & mS, JP, CARICOM, TR, LI, KR, NO, GE, AU, MY, CH, DO, CH, IL, TZ, MR, NZ, US; retain – CN, AR, BF, PK, DZ, CV, NA] [move after 79 – IR]

[1. A State Party shall take all necessary measures enabling it, in accordance with its domestic law, to obtain from financial institutions and from ~~[organizations engaged in activities related to the~~ [generation and: IN] ~~circulation of digital financial assets and digital currency~~ virtual asset service providers: SG], ~~[operating: LI]~~ within its jurisdiction, information on the identity of customers and beneficial owners, where there is information regarding their possible involvement, or the possible involvement of members of their families or close associates or persons acting on their behalf, in the commission of offences ~~[established in accordance with this Convention committed with the use of information and communication technologies: RU]~~, including information on the accounts of all the above-mentioned persons. ~~(delete paragraph): EG]~~

2. A State Party shall take all necessary measures enabling it, in accordance with its domestic law, to require that financial institutions, as well as ~~[organizations engaged in activities related to the~~ [generation and: IN] ~~circulation of digital financial assets and digital currency~~ virtual asset service providers: SG, TR], apply reasonable scrutiny to accounts sought or maintained by or on behalf of persons referred to in paragraph 1 of this article.

3. The measures referred to in paragraphs 1 and 2 of this article shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions, or ~~[organizations engaged in activities related to the~~ [generation and: IN] ~~circulation of digital financial assets and digital currency~~ virtual asset service providers: SG], from doing business with any legitimate customer.

4. In order to facilitate implementation of the measures provided for in paragraphs 1 and 2 of this article, each State Party shall, as appropriate, notify financial institutions, as well as ~~[organizations engaged in activities related to the~~ [generation and: IN] ~~circulation of digital financial assets and digital currency~~ virtual asset service providers: SG] operating within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions or organizations will be expected to apply enhanced scrutiny, in addition to those persons whom the financial institutions, as well as the ~~[organizations engaged in activities related to the~~ [generation and: IN] ~~circulation of digital financial assets and digital currency~~ virtual asset service providers: SG], may otherwise identify.

5. Each State Party shall implement measures to ensure that its financial institutions, as well as organizations engaged in activities related to the [generation and: IN] circulation of digital financial assets and digital currency, maintain, over an appropriate period of time, adequate records of accounts and transactions involving the persons referred to in paragraph 1 of this article, which shall, at a minimum, include information relating to the identity of the customer and, as far as possible, of the beneficial owner.

6. With the aim of preventing and detecting transfers of proceeds of offences ~~[established in accordance with this Convention committed with the use of information and communication technologies: RU]~~, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence ~~[and that are not affiliated with a regulated financial group: SG]~~. Moreover, States Parties shall consider requiring their financial institutions, as well as ~~[organizations engaged in activities related to the circulation of digital financial assets and digital currency~~ virtual asset service providers: SG], to refuse to enter into or continue a correspondent banking relationship with such institutions, and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence ~~[and that are not affiliated with a regulated financial group: SG]~~.

SG]. [Digital banks that are established under the licence of the relevant national authorities and are subject to the same regulation as well as supervision as traditional banks which have physical headquarters but operate without branches and engage in conventional banking activities are not within the scope of this article.: TR]

[7. Each State Party shall consider establishing, in accordance with its domestic law, effective systems for the [disclosure-provision: CN] of financial information on persons regarding whom information exists about their possible involvement in offences [established in accordance with this Convention committed with the use of information and communication technologies: RU] [by financial institutions and from organizations engaged in activities related to the circulation of digital financial assets and digital currency, to competent authorities: CN], and shall provide for appropriate sanctions for non-compliance with the requirements referred to in this article. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary for investigating and taking action to recover proceeds of offences [established in accordance with this Convention committed with the use of information and communication technologies: RU]. (delete paragraph): EG]

[8. For the purpose of Article 93, “virtual asset service provider” shall be defined as any natural or legal person, excluding central banks and other state-backed authorities that issue digital currencies, that conducts one or more of the following activities or operations for or on behalf of another natural or legal person:

- (a) Exchange between virtual assets and fiat currencies
- (b) Exchange between one or more forms of virtual assets
- (c) Transfer of virtual assets
- (d) Safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets
- (e) Participation in and provision of financial services related to an issuer’s offer and/or sale of a virtual asset

9. For the purpose of paragraph 8, “virtual asset” shall be defined as a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes.: SG]

## **Chapter VII**

### **Mechanism of implementation**

#### **Link to report of co-facilitators**

*Article 94. Conference of the [States: US, CA, NZ, EU & mS] 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.
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 of the States Parties shall be held in accordance with the rules of procedure adopted by [consensus by: PK, IR, TR] the Conference of the States Parties.

[2 bis. In establishing its regular meetings, the Conference of the Parties shall take into account the time and location of the meetings of their relevant international and regional organizations and mechanisms, including their subsidiary bodies, and treaty bodies, consistent with the principles identified in paragraph 3 of this article.: US, CA, EG, UK, CO, AU, JP, FJ]

3. The Conference of the States Parties shall adopt rules of procedure and rules governing the activities set forth in this article [by consensus: AR, VE, EG, TR], including rules concerning the admission and participation of observers [and stakeholders: PK] [non-government and other relevant stakeholders: AU] and the payment of expenses incurred in carrying out those activities. ~~[Such rules and related activities shall take into account principles such as (~~[State Parties: EG] ownership: CN, EG, DZ) effectiveness, inclusivity, (sustainability and interoperability: AU) transparency and efficiency: CN, US; retain: EU & mS, UK] [State Parties shall take into consideration the special circumstances of developing countries and its financial capabilities in the adoption of rules regarding payment of expenses: AR]

[3. alt The Conference of the Parties shall adopt rules of procedure and rules governing its] activities and responsibilities set forth in this article in accordance with the following principles:

- (a) Inclusivity;
- (b) Transparency
- (c) Accountability;
- (d) Efficiency; and
- (e) Effectiveness.: CA]

[3 alt. The Conference of the Parties, with a view to promoting broad participation, shall adopt rules of procedure and rules governing the activities set forth in this article, including rules concerning the admission and participation of observers including signatories, non-parties, and relevant stakeholders including non-governmental organizations, civil society organizations, academic institutions and the private sector, and the payment of expenses incurred in carrying out these activities.: US, UK]

[3 bis. With a view to promoting broad participation and to inform its work, the Conference of the Parties shall ensure meaningful participation of international and regional organizations, civil society, and other stakeholders.: CA]

4. 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:

(a) Facilitating the effective ~~[use and: KR]~~ implementation of this convention, ~~[(the identification of any problems thereof: KR) as well as the (effects of: CARICOM) activities carried out by States Parties under this Convention: AU]~~ including [by: CARICOM] (actions to improve its implementation, including: AR) encouraging the mobilization of voluntary contributions [and the identification of any problems thereof: AU];

[ (a alt) Facilitating the exchange of information on challenges, hurdles, and barriers related to offences committed with the use of information and communications technologies for criminal purposes that can greatly assist in the identification of patterns and trends in such activities and propose non-binding countermeasures.: PK; against – US]

[ (a bis) Facilitating the exchange of information on best practices for preventing and combating crimes committed with the use of information and communication technologies, with the exception of information constituting a State secret in accordance with the legislation of the State Party, and for the return of proceeds of crime.: PK; against – US]

(b) Facilitating the exchange of information [among States Parties and relevant stakeholders: AU] on legal, policy ~~[or and: AU]~~ technological developments pertaining to cybercrime [patterns, trends: AU] [and collection of evidence in electronic form among States Parties and relevant stakeholders: AU] [.: CN] [as well as: CARICOM] [on: AU] patterns and trends in [cybercrime] [the use of information



and communications technologies for criminal purposes] and on successful practices for preventing and combating such crime [in accordance with their respective domestic law: AR], ~~[with the exception of (information constituting a State secret in accordance with the legislation of the State Party: CO) (and for the return of proceeds of crime: retain – NG, BF): NZ, CA, AU, UK; retain – EG]~~;

(c) Cooperating with relevant [international and regional organizations and mechanisms: IR, CA], as well as [other (relevant: CA) multi-: CN, AU, IR, GH, TR; retain – CARICOM, JP, VE] stakeholders;

[ (c alt) Cooperating with relevant international and regional organizations and mechanisms, as well as other relevant non-governmental organizations, civil society organizations, academic institutions, the private sector:; DZ]

(d) Making appropriate use of relevant information produced by other international and regional [organizations and: AU] mechanisms [regarding technological developments, the prevalence of crime, risk assessment, and trends: PK] for preventing and combating [cybercrime] [the use of information and communications technologies for criminal purposes], in order to avoid unnecessary duplication of work;

(e) Reviewing periodically the implementation of this Convention by its States Parties;

(f) Making recommendations to improve this Convention and its implementation ~~[as well as]~~including: AU considering possible supplementation or amendment of the Convention.

[ (f bis) Elaborating and adopting additional protocols to this Convention based on article 99 of this Convention:; RU, US]

(g) Taking note of the technical [and technological: IR] assistance [and capacity building: AU] requirements of States Parties regarding the implementation of this Convention and recommending any action it may deem necessary in that respect.

~~[5. — For the purpose of paragraph 4 [(c) and (f): AU] of this article, the Conference of the States Parties shall acquire the necessary knowledge of the measures taken by States Parties in implementing this Convention and the difficulties encountered by them in doing so through information provided by them (periodically as may be established by the COP: AR) (and through such supplemental review mechanisms as may be established by the Conference of the States Parties: RU):; US, CA, AU, PK]~~

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, [on a regular basis and as otherwise: US] as required by the Conference of the States Parties. The Conference of the States Parties shall examine the most effective way of receiving and acting upon [such: AU] information, ~~[including:; AU]~~ [inter alia:; US] [as well as: AU] information received from ~~[States: US]~~ [Parties and: AU] from ~~[competent other: AU]~~ international [and regional: US, AU, CA] organizations [and mechanisms: US, AU]. ~~[Inputs Information: US]~~ [The Conference of the States Parties may also consider information: AU] received from ~~[multi stakeholders: US, AU; retain – CARICOM], duly accredited in accordance with procedures (established in paragraph 3: AR) to be decided upon by the Conference of the States Parties [(relevant: AU) stakeholders: US, AU, CA] [may shall: US, CA]~~ also be considered. ~~[delete last sentence: RU, YE]~~

[6 bis. — For the purpose of paragraph 4 of this article, the Conference of Parties may establish and administer such review mechanisms as considered necessary to supplement the information provided by States parties and relevant stakeholders in accordance with paragraph 6 of this article.: US, AU, CA]

7. Pursuant to paragraphs 4 to 6 of this article, the Conference of the States Parties shall establish, if it deems necessary, any appropriate mechanism or subsidiary ~~[body~~ bodies: ZA, AU, CO, NG, ID] to assist in the effective implementation of the Convention.

[7 bis. Pursuant to paragraphs 4 to 6 of this article, the Conference of the Parties may establish any appropriate mechanism(s) or subsidiary body or bodies to assist in the effective implementation of the Convention.: US, GH]

#### *Article 95. Secretariat*

1. The Secretary-General of the United Nations shall [designate the United Nations Office on Drugs and Crime to: US, CA, EG, ZA, AU, PE, EC, NG, GH, NA, VE, PK, TR] provide the necessary secretariat services to the Conference of the States Parties to the Convention.

2. The Secretariat shall:

(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 of the States Parties as they pertain to this Convention;

(b) Upon request, assist States Parties in providing information to the Conference of the States Parties, as envisaged in this Convention; and

(c) Ensure the necessary coordination with the secretariats of relevant international and regional organizations.

### **Chapter VIII Final provisions**

#### *Article 96. Implementation of the Convention*

[Retain original: PK, TZ]

1. Each State Party shall take [the all: MX] necessary measures~~[, including legislative(, regulatory: CA) and administrative measures, in accordance with (fundamental principles of its: CA, AU) domestic law, to ensure for: MX]~~ the implementation of [its obligations under this the present: MX] Convention [to the maximum of its possibilities within available resources and within the framework of international cooperation: MX]. [If two or more States Parties have already concluded an agreement or treaty on the matters dealt with in this Convention, or should they in future do so, they shall also be entitled to apply that agreement or treaty.: NZ, AU]

[1 alt. States parties are encouraged to adopt appropriate measures provided for in this Convention, and in accordance with its national legislation...: CM]

2. Each State Party may adopt more strict ~~[or severe: RU, NI]~~ measures than those provided for by this Convention for preventing and combating [within the scope of this convention: BR] [cybercrime] [the use of information and communications technologies for criminal purposes] [for the criminal offences referred within: MX, AU] [the offences set forth in this Convention: NZ, AU].

#### [Article 96 bis. Measure to adapt the Convention to emerging challenges]

1. The [selected Implementation Mechanism] may adopt Technical Annexes for ensuring that this Convention adapts and responds adequately to new and emerging challenges. In this regard:

(a) When a State Party or a relevant international organization has information which in its opinion may require the adoption of a Technical Annex to this Convention, it shall notify and furnish the Secretariat with the corresponding information.

(b) The Secretariat shall transmit such notification, any relevant information and a call for an extraordinary meeting of the [selected Implementation Mechanism] and to other relevant international organizations with competence in the matter.

(c) The Secretariat may, on its own accord, bring to the attention of the [selected Implementation Mechanism] the need to adopt a Technical Annex.

(d) The States Parties and other relevant international organizations with competence in the matter, shall transmit their comments and/or proposals to the Secretariat within sixty days.

2. The Technical Annexes shall be adopted by a two-third majority of the present members of the [selected Implementation Mechanism].

3. Any decision taken by the [selected Implementation Mechanism] pursuant to this Article shall be communicated by the Secretariat to the States Parties to this Convention.

4. (a) The decisions on new Technical Annexes shall be subject to review upon the request of any State Party, filed within ninety days from receipt of notification of the decision. The request for review shall be sent to the Secretariat together with all relevant information upon which the request for review is based;

(b) The Secretariat shall transmit copies of the request for review and relevant information to the States Parties to this Convention and to relevant international organizations with competence on the matter, inviting them to submit comments within ninety days. All comments received shall be submitted for consideration;

(c) The [selected Implementation Mechanism] may confirm, alter or reverse the decision, which shall be final.

(d) During pendency of the review, the original decision of the [selected Implementation Mechanism] shall remain in effect.

6. Any Technical Annex shall become effective within three months after its adoption by the [selected Implementation Mechanism] or, in case of review, thirty days upon the confirmation of its content, unless the majority of the States Parties register their disapproval with the Secretariat.: MX, DO, against - EU & mS, NZ, US]

[Article 96 ter. Measure to adapt the Convention to emerging challenges]

The Technical Annexes form an integral part of this Convention and, unless expressly provided otherwise, a reference to this Convention or to one of its parts includes a reference to the Technical Annexes relating thereto.: MX; against – IR, EU & mS, NZ, US]

*Article 97. Effects of the Convention*

[delete – BF, SY, ZA, BR, PK, IR] [retain original: JP, RS, NA]

~~[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.: NZ, TH]~~

[1 alt. This Convention does not restrict co-operation between the Parties through other existing or future agreements, arrangements, practices or domestic law.: CA, DO]

[2. With respect to States Parties that are members of a regional ~~[economie-: CM]~~ integration organization, ~~[or are bound by its rules.: EU & mS, NO, LI]~~ those States Parties may, in their mutual relations, apply the ~~[rules-law: US, EU & mS, NO, LI]~~ of that regional economic integration organization, ~~[(and shall therefore not apply the provisions arising from this Convention: NZ, TH)]~~ governing the matters dealt with in this Convention: US, NO, EU & mS, LI] [delete paragraph: CARICOM, NZ, IN, TZ, YE, DO]

[2 alt. States Parties which are members of a regional integration organisation may, by mutual agreement, apply the provisions of this Convention without prejudice to existing regional conventions in this field.: CM]

[2 bis. Where Parties establish their relations in respect of the matters dealt with in the present Convention other than as regulated therein, they shall do so in a manner that is not inconsistent with the Convention's objectives and principles.:AU, FJ]

[3. ~~(Nothing in: CA)~~ this Convention shall ~~[not: CA]~~ affect other rights, restrictions, obligations and responsibilities of a State Party under international law ~~[including existing international agreements: AU]~~. (move to article 3: NZ)] ~~[delete paragraph – AR, YE]~~

*[Article 97 alt. Relation with other international treaties]*

1. This Convention shall not affect the rights and obligations arising from provisions of other international treaties to which the States Parties to this Convention are or become parties and which contain provisions on matters governed by this Convention.

2. Notwithstanding provisions of paragraph 1 of this article, in relations between a State Party to this Convention and a State Party to this Convention as well as to another international treaty concluded on matters dealt with in this Convention, the provisions of this Convention shall apply.

3. The States Parties to the Convention may conclude bilateral and multilateral agreements with each other on matters regulated by this Convention, with the aim of supplementing or strengthening its provisions or promoting the application of the principles established in the Convention.: RU, NI; against – AU, EU & mS, NZ, FJ]

*Article 98. Relation with protocols*

[retain article: CARICOM, TZ, TZ] [retain original: PK, DO, NA]

1. This Convention may be supplemented by one or more protocols.

2. Such protocols shall be negotiated and adopted following the same procedural and organizational rules followed for the negotiation and adoption of this Convention.  
[retain original – BR, NO, LI]

[2 alt. Decisions on the development of protocols and their adoption are taken by the Conference of Parties by voting by a simple majority of votes from the total number of States Parties to this Convention.: RU, NZ]

3. 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.

4. 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 of the protocol: CA, NZ].

5. [Any A: CA, NZ] protocol to this Convention shall be interpreted together with this Convention, taking into account the purpose of that protocol.

*Article 99. Settlement of disputes*

[Retain original – EG, JP, AU, IR, TZ, NA]

1. States Parties shall endeavour to settle disputes concerning the interpretation or [application—implementation: CA, NZ] of this Convention through [negotiation] peaceful settlement of disputes in accordance with article 33 of the Charter: CM [or any other peaceful means of their own choice: CARCOM, PK, DZ, YE, , EU & mS].

2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation [or any other

peaceful means of their choice: CARICOM, MY, DZ, YE, NG] 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 [of which the forum of choice is to be agreed to between the disputing State Parties: MY], 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. [delete paragraph: YE]

4. Any State Party that has made a [reservation-declaration: CA, NZ] in accordance with paragraph 3 of this article may at any time withdraw that [reservation-declaration: CA, NZ] by [written: CA, NZ] notification to the [Secretary General of the United Nations depositary: CA, NZ]. [delete paragraph: YE]

#### Article 100. Reservations

*[On the basis of the statements made by many Member States during the third session of the Ad Hoc Committee, the need for this provision and its content should be assessed once discussions on the substantive provisions of the draft convention have reached a more advanced stage.]*

#### Article 101. Signature, ratification, acceptance, approval and accession

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 organization has signed this Convention in accordance with paragraph 1 of this article: EU & ms, CA] [provided that only once one of its member States has deposited its instrument of ratification, acceptance or approval: CA, NZ].

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 depositary: CA, NZ]. 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: EU & ms]. 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. [Once entered into force: CA, NZ] 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: EU & ms]. Instruments of accession shall be deposited with the [Secretary General of the United Nations depositary: CA, NZ]. 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.

[5. References to "States Parties" in this Convention shall apply, mutatis mutandis, to such regional economic integration organizations that concluded the Convention in accordance with paragraph 3 or acceded thereto in accordance with paragraph 4 of this article.: EU & mS]

*Article 102. Entry into force*

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the [thirtieth: RU, EG, CN, BR, IN, VE, PK, ID, TZ, PE, DZ, IR, NI, ZW, NA] [fortieth: BF, ZA, GH, DZ, TH, ZW, CM, EC] [fiftieth: UK, VN, DO, TH, EU & mS] [sixty-fifth: MX, LI] [seventieth: US, NO, NZ, SY, LI, SG, CA, IL, YE] [ninetieth: CARICOM] instrument of ratification, acceptance, approval ~~[or accession: CA, NZ]~~. 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 such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the [thirtieth] [fortieth] [fiftieth] [seventieth] 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 this Convention enters into force pursuant to paragraph 1 of this article, whichever is later:] CARICOM]~~

*Article 103. Amendment*

[Retain original: US, NA]

1. After the expiry of ~~[five-three: RU, NI]~~ years from the [date of: CA, NZ] entry into force of this Convention, a State Party may propose an amendment and transmit it to the ~~[Secretary General of the United Nations]~~ depository: CA, NZ], who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the States Parties to ~~[the this: CA, NZ]~~ Convention for the purpose of considering and deciding on the proposal. The Conference of the States Parties 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 of the States Parties.

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.

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

4. An amendment [ratified: RU, NI] adopted [or approved by all States Parties to this Convention: RU] in accordance with paragraph 1 of this article shall enter into force in respect of ~~[a-each: RU, NI]~~ State Party ninety days after the date of the deposit with the ~~[Secretary General of the United Nations]~~ depository: CA, NZ] of ~~[an the last: RU, NI]~~ instrument of ratification, acceptance or approval of such amendment.

~~[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:] RU]~~

*Article 104. Denunciation*

[Retain original: US, NA]

1. A State Party may denounce this Convention by written notification to the ~~[Secretary General of the United Nations]~~ depository: CA, NZ]. Such denunciation shall become effective one year after the date of receipt of the notification by the ~~Secretary General~~ depository: CA, NZ].

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



3. Denunciation of this Convention in accordance with paragraph 1 of this article shall entail the denunciation of any [\[applicable: US, NO\]](#) protocols ~~[thereto to this Convention: CA, NZ]~~.

*Article 105. Depositary and languages*

[\[Retain original: US, NA\]](#)

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 [\[and Portuguese: CV\]](#) texts are equally authentic, shall be deposited with the ~~[Secretary-General of the United Nations]~~ [\[depositary: CA, NZ\]](#).

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

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