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

**Working document for co-facilitated informal negotiations - Group C**

*Status: 18 April 2023*

The present document was prepared at the request of the co-facilitators of informal negotiation group C and is without prejudice to a final decision by the plenary of the Ad Hoc Committee.

***Source***: UNODC Model Law on Mutual Assistance in Criminal Matters (2007), as amended with provisions on electronic evidence and the use of special investigative techniques (2022) (available [here](https://www.unodc.org/documents/legal-tools/Model_Law_Mutual_Legal_Assistance_2022.pdf)).

**Computer system**

Computer system means any device or group of interconnected or related devices [consisting of hardware and software (Iran, Venezuela) (delete: Canada)], one or more of which, pursuant to a program or other software, [receives (Mexico, Venezuela) (delete: Canada)], [stores (delete: UK)], transmits or otherwise processes [computer (delete: Venezuela)] data [or any other function (Iran) (delete: Canada)].

Support original: Caricom, Algeria, Venezuela

**Alt**.: Computer system means any device or group of interconnected or interrelated devices, one or more of which, pursuant to a program, performs automatic processing of data. (EU and mS, Australia, USA, Canada, Japan, Turkiye, Liechtenstein, Chile, UK, New Zealand, Switzerland, Dominican Rep., Peru, Norway, Colombia)

**Alt.2**: Computer system is a combination of hardware equipment the functioning of which is achieved primarily with the use of computers, operating systems and processors. (Russian Fed.)

**Alt.3**: Computer system is a type of an ICT device or a group of such ICT devices one or more of which, pursuant to a program, performs automatic processing of electronic information. (Russian Fed.)

**ICT device[[1]](#footnote-2)**

ICT device means a diverse set of technological tools and resources used to communicate, and to create, disseminate, store, and manage information. (Pakistan)

**Alt**: ICT device is an assemblage or grouping of technical components used or designed for automatic processing, storage and transfer of electronic information. (Russian Fed.)

**Information and communications technologies**

Information and communications technologies (ICT) shall mean processes and methods of generating, processing and distributing information, as well as ways and means of the implementation. (Russian Fed.)

**Information and communications networks**

Information and communications networks shall mean a set of engineering equipment designed to control technological processes by means of computer technology and telecommunications. (Russian Fed.)

**Information and communications technologies (ICT)**

Information and communications technologies (ICT)are the process and methods of generating, processing and/or distributing data or information, as well as ways and means of their implementation. (Iran)

**Information and communications technologies (ICT) systems**

Information and communications technologies (ICT) systems means all categories of technology used for gathering, storing, transmitting, retrieving, altering or processing data or information including but not limited to microelectronics, printed circuits boards, computer systems, software, signal processors, mobile telephony, satellite communications, and networks. (Iran)

**Computer data**

*Option 1*

Computer data means any representation of data or information [or concepts (Iran)] that [has been stored (alt. may be stored: Venezuela)], transmitted or otherwise processed in a computer [and/or electronic (Iran)] system. It includes subscriber, traffic and content data.

(Iran, Venezuela)

Computer data is electronic information processed, stored and transmitted with the use of computer systems (Russian Fed.)

*Option 2*

Computer data means any representation of [facts (delete: Singapore)], information or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function.[[2]](#footnote-3)

(UK, Australia, Canada, EU and mS, USA, Japan, Singapore, Peru, Caricom, Turkiye, Namibia, Dominican Rep., Algeria, Chile, Tanzania, Norway, Colombia)

**Delete option 2**: Iran

**Electronic information[[3]](#footnote-4)**

Electronic information means any form of information that is created, distributed, used, integrated, or manipulated in an electronic format, such as through the use of computers, the internet, and other digital technologies. (Pakistan)

**Alt**: Electronic information is any information processed, stored and transmitted with the use of ICT devices (Russian Fed.)

**Content data**

Content data means any computer data relating to a communication [by means of a computer system (delete: Japan, Singapore)] concerning the substance or purport of that communication, such as text, voice, images[, video (Mexico, Australia, Canada) (delete: Netherlands)] [, meta-data (Mexico) (delete: Australia)] and sound [or data stored in a computer system (Dominican Rep., Australia, Canada)].

**Retain original**: USA, UK, EU and mS, Nigeria, New Zealand, Australia, Canada, Peru

**Delete**: Japan, Canada, Australia, Singapore

**Alt**: electronic information relating to content of the data transferred by means of ICTs including text messages, voice messages, audio recording, video recording as well as other types of information. (Russian Fed., India, Namibia, South Africa, Pakistan, Iran, China, Algeria)

**Alt.2**: Content data means any computer [and/or electronic (Iran) (delete: Netherlands)] data relating to a communication by means of a ICT device concerning the substance or purport of that communication, such as text, voice, images[, video (Mexico, Australia, Canada) (delete: Netherlands)] [, meta-data (Mexico)] and sound [or data stored in a computer system (Dominican Rep., Australia, Canada)].

Content data is electronic information relating to content of the data transferred by ICT devices including text messages, voice messages, audio recording, video recording as well as other types of information. (Russian Fed.)

**Traffic data**

Traffic data means any computer data collected in the normal course of business by a service provider, related to:

(a) the type of service provided and its duration where it concerns technical data and data identifying related technical measures or interfaces used by or provided to the subscriber or customer, and data related to the validation of the use of the service, excluding passwords or other authentication means used instead of a password, that are provided by a user, or created at the request of a user;

(b) the commencement and termination of a user access session to a service, such as the date and time of use, or the log on to, and log out from the service; and

(c) communications metadata as processed in an electronic communications network for the purposes of transmitting, distributing or exchanging content data, including data used to trace and identify the source and destination of a communication, data on the location of the terminal equipment used in the context of providing communications services, and the date, time, duration and the type of communication.

**Alt:** traffic data means any electronic information excluding the content data relating to the transfer of data by means of ICTs and indicating in particular the origin, destination, route, time, date, size, duration and type of the underlying network service. (Russian Fed., China, Iran)

**Alt.2**: traffic data means any [computer data alt: data (India)] relating to a communication by means of a computer system [and/or computer network (India)], generated by a computer system [and/or computer network (India)], that formed a part in the chain of communication, indicating the communications origin, destination, route, time, date, size, duration or type of underlying service. (USA, Australia, Canada, UK, EU and mS, Japan, India)

**Alt.3**: traffic data means any electronic information/computer data excluding the content data relating to the transfer of electronic data/data by means of ICT/computer system and indicating the quantity of calls, messages or data transmission offered or attempted over a specified period of time and over a specified circuit or network in particular the origin, destination, route, time, date, duration and type of underlying network service. (Pakistan, China, Iran)

Replace computer system for ICT device: South Africa

**Alt.4**: Traffic data is any electronic information excluding content data relating to the transfer of data by ICT devices and indicating in particular the origin, destination, route, time, date, size, duration and type of the underlying network service. (Russian Fed.)

**Subscriber data**

Subscriber data means any computer data, collected in the normal course of business by a service provider, [pertaining to the name, date of birth, postal or geographic address, billing and payment data, device identifiers, telephone number or email address (delete: UK, Germany)], which can serve to identify the subscriber or customer, as well as the type of service provided and the duration of the contract with the service provider.

**Alt.** (Russian Fed.) [User [EU: subscriber] information means any information contained in the form of [electronic information (EU: computer data)] or any other form that is held by a service provider relating to subscribers of its services other than traffic or content data and by which can be established

(a) the type of [information and communications technology services (EU: communication service used)], the technical provisions applied thereto, the period of service

(b) the subscriber’s identity, postal or geographic addresses, telephone and other access numbers including IP addresses and billing and payment information available on the basis of the service agreement or arrangement as well as other information allowing to identify the user

(c) information relating to the location of information and communications equipment available on the basis of the service agreement or arrangement. [EU: any other information on the site of the installation of communication equipment, available on the basis of the service agreement or arrangement.]

Russian Fed., Iran

EU, Japan, Australia

**Electronic evidence**

Electronic evidence means any data or information generated, stored, transmitted or otherwise processed in electronic form that may be used to prove or disprove a fact in legal proceedings.

No need to define term: UK, EU, Japan, Australia, USARetain: Iran, Russian Federation

**Service provider**

Service provider means:

1. any [person, or (delete: EU, Russian Fed., Iran, Japan, Singapore, Pakistan, USA)] public or private entity, that provides to users of its services the ability to communicate by means of a [computer system/ICT system/device (Pakistan, Russian Fed.) (retain original: UK)] [or electronic network (Singapore)] [, or otherwise facilitates communication over an electronic communications network (delete: EU, Japan, Singapore, Pakistan, USA)]; and
2. any [other person, or (delete: EU, Russian Fed., Iran, Japan, Pakistan, USA) public or private entity, that stores or otherwise processes [computer data/electronic information (Pakistan)] on behalf of such [communication (EU)] service or users of such service.

Use language from Budapest Convention: Iran, USA

**Personal information/data[[4]](#footnote-5)**

Personal information/data means information relating to an identified or identifiable natural person.

Support original: EU

Support “personal information”: Pakistan, USA

Support “personal data”: UK

**Digital technology device (proposal by the co-facilitators as an alternative to “ICT device”)**

Any device or group of interconnected or related devices, one or more of which, pursuant to a program or other software, stores, transmits or otherwise processes digital data.

**Information system (proposal by the co-facilitators as an alternative to “computer system”)**

A device or group of interconnected or related devices, one or more of which, pursuant to a program, automatically processes computer data, as well as computer (or digital) data stored, processed, retrieved or transmitted by that device or group of devices for the purposes of its or their operation, use, protection and maintenance.

*Source*: DIRECTIVE 2013/40/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA

**Harm**

Harm denotes any harm whatever illegally caused to any person, in body, mind, reputation or property. (India)

**Definition to be taken into consideration for building upon ICT definition**

ICT encompasses the capture, storage, retrieval, processing, display, representation, presentation, organization, management, security, transfer, and interchange of data and information. (Mexico)

Source: <https://csrc.nist.gov/glossary/term/ict>

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1. Definition added at the request of the co-facilitators. [↑](#footnote-ref-2)
2. This is the definition of “computer data” in Article 1(b) of the Council of Europe’s Cybercrime Convention. [↑](#footnote-ref-3)
3. Definition added at the request of the co-facilitators. [↑](#footnote-ref-4)
4. Definition based on countries’ submissions. [↑](#footnote-ref-5)