

Co-facilitated informal meetings on the use of terms of the 6th session of the Ad Hoc Committee

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Article 2. Use of terms

For the purposes of this Convention:

(a) ~~“Alt1. [Computer system]–[Information and communications technology device]” [shall mean any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data (EU and mS, Canada, Albania, Georgia, Colombia, Chile, Singapore, Rep. of Korea, Japan, Dominican Republic, Peru, Liechtenstein, Ecuador, Switzerland, New Zealand, Paraguay, Norway, Mozambique, UK, US, Tanzania)];~~

[Alt2. “Information and communications technology system” shall mean a complex of data and information as well as all means of gathering, storing, transmitting, retrieving, altering and any other way of processing data or information including but not limited to microelectronics, printed circuit boards, computer systems, software, signal processors, mobile telephony, satellite communications and networks.

“Information and communications technology device” shall mean a piece of hardware and software used or designed for processing, storage and transfer of electronic information. (Russian Fed., Iran, Pakistan)]

[Alt3. “Information and communications technology system” shall mean a collection of hardware, software and the peripherals that includes of input, output, processing, storage and interconnection between individual components, which work together to perform an overall task or set of tasks supervised by an operating system, firmware or applications software. (Iran, Pakistan, Iraq)]

[Alt4. “Information and communications technology device” shall mean a device or group of interconnected or related devices that: (i) gathers, stores, transmits or retrieves digital information [/data (Venezuela)] or (ii) performs automatic processing of digital information, pursuant to a program. (India, China, Venezuela)]

[Alt5. “Computer system” shall mean any device or a group of interconnected or related devices of information and communications technologies one or more of which pursuant to a program perform automatic processing of electronic or digital data. (Argentina)]

(b) ~~“[Computer data]–[Digital information]” [shall mean any representation of facts, information [or concepts: delete (Indonesia); retain (Canada)] in a form suitable for processing in a computer system, including a program suitable to cause a computer to perform a function (EU and mS, Australia, Liechtenstein, Albania, Indonesia, New Zealand, Tanzania, Canada, Rep. of Korea, US, Georgia, Chile, Switzerland, Austria, Japan, Kenya, Norway, Singapore, Colombia, UK, Peru, Mexico, Dominican Republic, Philippines, Mozambique)];~~

[“Digital Information” shall mean any representation of facts, information or concepts in a form suitable for processing in an information and communications technologies device, including a program suitable to cause an information and communications technologies device to perform a function (India)]

[Alt. “Electronic information” shall mean any form of information that is created, distributed, used, integrated, or manipulated in electronic format, such as through the use of computers, the Internet and other digital technologies. (Pakistan, Russian Fed., Iran)]

[Alt2. “Electronic information” shall mean any information processed, stored and transmitted with the use of information and communications technologies devices. (Russian Fed.)]

[Alt3. “Digital data” shall mean data that represents other forms of data suitable for processing by information and communications technologies devices. (China, Iran)]

[Alt4. “Computer data” shall mean any representation of facts or concepts in a digital form suitable for processing in a computer system including a program suitable to cause a computer to perform a function.

“Electronic data” shall mean any form of electronic impulses that produce order to electronic or digital systems. (Argentina)]

~~(e) “Traffic data” shall mean any [computer data] [digital information] collected by a service provider, excluding content data, related to:~~

~~— (i) 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;~~

~~— (ii) The commencement and termination of a user access session to a service, such as the date and time of use, or of the login to and logout from the service; and~~

~~— (iii) Communications metadata 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 type of the communication;~~

[Alt1: “Traffic data” shall mean any [computer data] [digital information] relating to a communication by means of a computer system, generated by a computer system that formed a part in the chain of communication, indicating the communication’s origin, destination, route, time, date, size, duration, or type of underlying service. (EU and mS, Caricom, Singapore, Albania, Switzerland, El Salvador, Brazil, Liechtenstein, Canada, Tanzania, Colombia, Japan, Australia, UK, Georgia, Paraguay, Peru, Norway, Chile, New Zealand, US, Ecuador, Kenya,)]

[Alt2: “Traffic data” shall mean any electronic information excluding content data relating to the transfer of data by information and communications technology device and indicating in particular the origin, destination, route, time, date, size, duration [, sender and recipient identifiers (Pakistan)] and type of the underlying network service. (Russian Fed., Pakistan)]

Alt 3 “Traffic data” shall mean any computer or electronic data relating to a communication by means of a computer system generated by a computer system that forms a part in the chain of communication

indicating the communication origin, destination, route, time, date, size, duration or type of underlying service (Argentina)]

(d) “Content data” shall mean any [computer data] [digital information alt. data (Syria)] [other than subscriber information or traffic data (EU and its mS, New Zealand, UK, US, Switzerland, Brazil, Georgia, Albania, Australia, Norway, Tanzania, Peru). Reserve (Iran, Russian Fed.)] relating to a communication by means of a [computer system] [information and communications technology device] *concerning the substance or purport of that communication*, such as text, voice messages, audio recordings, video recordings, request body and response body (Iran, Venezuela)] [multimedia content, attachments and other forms of interactive content (Pakistan, Venezuela)] [and other types of information delete (EU and its mS, New Zealand, Pakistan, UK, Mexico, Colombia, Switzerland, Chile, El Salvador, Peru); retain (Russian Fed., Iran, Tanzania, Mozambique, Venezuela) delete (Caricom, US, Brazil, Georgia, Kenya, Australia, Norway, Tanzania)]];

[Alt: “Content data” shall mean electronic information relating to content of the data transferred by information and communications technologies including text messages, voice messages, audio recordings, video recordings, as well as other types of information. (Russian Fed.); delete (US)]

[Alt2: “Content data” shall mean any computer data relating to a communication by means of a computer or ICT device concerning the substance or purport of a communication” (Argentina)]

(e) “Service provider” shall mean:

(i) Any public or private entity [alt: natural or legal person (Syria, Tanzania, Venezuela, Iran) (retain original: (EU and mS, Caricom, UK, Albania, Ecuador, Kenya)) [alt: as well as a natural person (El Salvador)] that provides to users of its service the ability to communicate by means of a [computer system] [information and communications technology device]; and

(ii) Any other entity that processes or stores [computer data] [digital information] on behalf of such a communications service or users of such a service;

[Alt: Any public or private entity or organisation that provides to users of its services a diverse spectrum of digital services, entities such as internet service providers, web hosting providers, cloud service providers, social media platforms, email services, online payment processes, and comparable entities. (Pakistan, Russian Fed., Egypt)]

Retain original: Caricom, EU and mS, Liechtenstein, Albania, Japan, Mozambique, Colombia, Australia, Switzerland, Ecuador, New Zealand, Chile, Georgia, Rep of Korea, Kenya, Algeria, Norway, Peru, Canada, Philippines, Singapore

(f) “Subscriber information” [“User information” (Russian Fed.)] shall mean any information contained in the form of [electronic information (Russian Fed.)] [computer data] [digital information] 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:

(i) The type of communications [alt: information and communications technologies services (Russian Fed.)] service used, the technical provisions taken thereto and the period of service;

(ii) The subscriber's identity, postal or geographical address, telephone and other access number [including IP addresses and (Russian Fed.)], [, any assigned network address, (Iran)] billing and payment information, available on the basis of the service agreement or arrangement [as well as other information allowing to identify the user (Russian Fed.)];

(iii) Any other information on the site of the installation of communications equipment, available on the basis of the service agreement or arrangement;

[Alt: (iii) information relating to the location of information and communications equipment available on the basis of the service agreement or arrangement (Russian Fed.)]

Retain original: Norway, EU and mS, New Zealand, Albania, Canada, Singapore, Liechtenstein, Australia, UK, Caricom, US, Tanzania, Philippines

(g) "Personal data" shall mean [data alt.1: information (EU and mS, El Salvador, Brazil, Pakistan, US, Australia, Peru, UK, Norway, Morocco, Algeria, Colombia, Ecuador, Guatemala, New Zealand, Caricom, Turkiye, Rep of Korea, Japan, Philippines, Dominican Republic, Chile, Viet Nam, Russian Fed., Iran)] alt.2: data/information (Indonesia) (retain original: Iran, Syria, Malaysia, Indonesia, India, Tanzania, Namibia, Angola, Venezuela)] relating to an identified or identifiable natural person;

Retain original: Russian Fed., Iran, Syria, Malaysia, Venezuela, Angola

(h) "Serious crime" shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least [four alt: three (Russian Fed., Argentina, India, Syria, Algeria, Caricom) (retain original: Japan, EU and mS, Canada, Norway, El Salvador, Tanzania, Indonesia, Pakistan, Morocco, Colombia, Australia, Ecuador, Guatemala, Paraguay, Angola, Rep of Korea, Philippines, Switzerland, Georgia)] years or a more serious penalty; [delete: Argentina, Brazil, Chile, include 3 years in art. 35 and other references to serious crime in current text. Retain (Iran, Switzerland, Georgia, Venezuela, Caricom)]

(i) "Child" shall mean any human being under eighteen years of age [, unless under the law applicable to the child, majority is attained earlier. (Syria, El Salvador, Venezuela, Russian Fed., Iran, Peru, Caricom, Holy See)];

[Alt.1: "Child" shall mean any human being under a threshold age as established in domestic law, but which shall not be less than sixteen years of age (Singapore, Viet Nam, UK, Japan)]

Retain original: EU and mS, Iran, Holy See, USA, Indonesia, Morocco, Pakistan, Norway, South Africa, India, Peru, Algeria, Turkiye, Rep of Korea, Philippines, Albania, Iraq, Tanzania, Colombia, Switzerland, South Africa, Nigeria, Argentina, Chile

(j) "Property" shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, [including virtual assets (Brazil, Peru, Russian Fed., Venezuela, Paraguay, Guatemala, Ecuador, Chile, China, Syria, Cabo Verde, Pakistan)] -and legal documents or instruments evidencing title to, or interest in, such assets; [Retain original: Iran, Caricom, EU and mS, Turkiye, US, Tanzania, Nigeria, Algeria, Australia, Philippines, Liechtenstein, UK, Japan, Switzerland, Chile, Georgia, Canada, Kenya, New Zealand, Rep of Korea, Egypt, Albania]

(k) “Proceeds of crime” shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence [established in accordance with articles 6 to 15 of this Convention (Georgia, Canada, Nigeria, Kenya, Norway, New Zealand) (retain original: Iran, Russian Fed., China, Venezuela, Pakistan, India, Caricom, Rep of Korea, Viet Nam, Syria, Peru, Brazil)];

(l) “Freezing” or “seizure” shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority; [agreed in informals]

(m) “Confiscation”, which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority; [agreed in informals]

(n) “Predicate offence” shall mean any offence -as a result of which proceeds have been generated that may become the subject of an offence as defined in article 16 of this Convention. [agreed in Informals.]

- [o) “Person” shall mean both, legal person and natural person, unless expressly mentioned either as natural person or legal person. (India, Iran) (Delete: Georgia, Caricom)]

[p) “Regional economic integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it; references to “States Parties” under this Convention shall apply to such organizations within the limits of their competence.” (EU and mS, Norway, Peru, Paraguay, Canada, New Zealand, Ecuador, Switzerland, UK, Liechtenstein, US, Australia) (delete: Caricom, Russian Fed., Iran, Syria, Pakistan, Egypt, India)]

[(q) “Emergency” means a situation in which there is a significant and imminent risk to the life or safety of any natural person. (Cabo Verde) (delete: Iran, Russian Fed., Tanzania, Indonesia, Venezuela, Pakistan, Syria, Caricom, Egypt) (move to art 41: Brazil)]

[2. This article shall not be interpreted as imposing a requirement that States Parties apply in their domestic laws the exact same terminology, provided that the core elements defined in paragraph 1 of this article are covered under domestic laws in a manner consistent with the purpose of this Convention and offer an equivalent framework for its implementation. (co-facilitators, Russian Fed., China, Iran, Pakistan, Peru, Egypt, Paraguay, India, Indonesia, Venezuela, Viet Nam, Brazil, Ecuador, Iraq, Syria) (delete: US, EU and mS, Caricom, UK, Norway, New Zealand, Liechtenstein, Canada)]