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English only

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

Third session

New York, 29 August–9 September 2022

**Compilation of draft provisions submitted by Member
States on international cooperation, technical assistance,
preventive measures, mechanism of implementation, final
provisions and the preamble**

Note by the Secretariat

Summary

The present text was prepared by the Chair of the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes, with the support of the secretariat. It contains the proposals received from Member States in the format of draft provisions falling under the chapters to be considered at the third session of the Ad Hoc Committee, arranged according to article, with a view to supporting Member States to identify similarities and discrepancies among the various proposals on the same topics, so as to facilitate agreement on those provisions.



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I. Introduction

1. The present text was prepared by the Chair of the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes, with the support of the secretariat. It contains draft provisions of the convention submitted by Member States and arranged according to article, relating to the chapters of international cooperation, technical assistance, preventive measures, and the mechanism of implementation, the final provisions and the preamble that will be discussed during the third session of the Ad Hoc Committee.

2. In preparation of the third session of the Ad Hoc Committee, the Chair prepared with support of the secretariat the parliamentary document A/AC.291/12 and its addenda, comprising a compilation of the proposals and contributions from Member States, focused on the specific chapters to be examined during the third session, as received from Member States. The differences between the current document and document A/AC.291/12 and its addenda are that, in the present document, proposals are arranged according to article, so that draft articles submitted by Member States on the same topic are listed together, with a view to facilitate the identification of the similarities and discrepancies among the submissions, and general comments or proposals in a format other than that of draft provisions have not been included. Where submissions by Member States shared the same content, an effort was made to group them together, with the names of Member States being ordered in alphabetical order. Information on the source of specific drafting proposals has been added by the secretariat, when mentioned in the submission or clearly identifiable. Due to the tight timeframe for preparations, some of the texts used were the original, non-edited, submissions in English or the unedited translations into English. Therefore, some texts may slightly differ from that contained in document A/AC.291/12 and its addenda.

3. Only proposals related to the chapters being discussed during the third session are compiled in this document. Submissions that relate to other topics have not been included. The organization of chapters and subchapters follow, to the extent possible, the organization in Member States' submissions.

4. While all efforts were made to follow a systematic and comprehensive approach, including in grouping different proposals, it is noteworthy that the original proposals, available at the website of the Ad Hoc Committee as well as in document A/AC.291/12 and its addenda, remain the reference for a complete overview of national perspectives and their context.

II. International cooperation

A. General principles relating to international cooperation

Proposal 1

1. The States Parties shall cooperate to the fullest extent possible in accordance with the provisions of this chapter and pursuant to other international instruments on international cooperation in criminal matters and agreements reached based on the principle of reciprocity, as well as domestic laws, with a view to preventing, detecting, disrupting, investigating, prosecuting and adjudicating offences relating to ICT use.

2. States Parties shall consider providing mutual assistance in the investigation and prosecution of civil and administrative cases related to the liability of legal persons for committing unlawful acts relating to ICT use, as appropriate and as permitted by domestic legal systems.

3. In making and responding to requests under this Convention, the channels of the International Criminal Police Organization (INTERPOL) may be used in urgent cases and when agreement between the requesting and requested States Parties is reached.

(Brazil)

Source: Proposal submitted by the Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan), with modifications by Brazil.

Proposal 2

The State Parties shall cooperate with each other, in accordance with the provisions of this chapter, to the widest extent possible for the purposes of 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.

(Canada)

Source: Council of Europe Convention on Cybercrime, article 23.

Proposal 3

1. States Parties shall cooperate with each other, in accordance with [the provisions of this chapter: European Union] [this Chapter of the Convention: Jamaica on behalf of CARICOM] [articles [...] of this Convention: United Republic of Tanzania] [articles [on criminalization] of this Convention: United States] [, including the conditions and safeguards set out in article 2, for the purpose of investigations, prosecutions and judicial proceedings concerning criminal offences defined in this Convention: European Union] [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 [corruption: United Republic of Tanzania] [the offences set forth in this Convention: United States]: United Republic of Tanzania, United States].

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.

[3. 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 or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.: United States]

(European Union and its member States, Jamaica on behalf of CARICOM, United Republic of Tanzania, United States of America)

Source: United Nations Convention against Transnational Organized Crime (Organized Crime Convention), article 16; United Nations Convention against Corruption (Convention against Corruption), articles 43 and 44.

Proposal 4

States Parties shall cooperate with each other, in accordance with the provisions of this chapter, and through the application of relevant international instruments on international cooperation in criminal matters, arrangements agreed on the basis of uniform or reciprocal legislation, and domestic laws, to the widest extent possible for the purposes of investigations or proceedings concerning criminal offences [related to computer systems and data,; Ghana] [covered by the Convention: United Kingdom]

or for the collection of evidence in electronic form of a criminal offence [or the confiscation and forfeiture of proceeds of crime, among others: Ghana].

(Ghana, United Kingdom of Great Britain and Northern Ireland)

Proposal 5

1. The States Parties shall cooperate to the fullest extent possible in accordance with the provisions of this chapter and pursuant to other international instruments on international cooperation in criminal matters and agreed arrangements based on the principle of reciprocity, as well as domestic laws, with a view to preventing, suppressing, detecting, exposing and prosecuting offences relating to ICT use.
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.
3. Where appropriate and consistent with their domestic legal system, States Parties shall assist each other in investigations of and proceedings in civil and administrative cases relating to illegal acts involving the use of ICT.
4. Among the States Parties, for the purposes of extradition and mutual legal assistance in criminal matters, including confiscation and recovery of property obtained by criminal means, none of the offences set forth in articles 6–28 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.

In making and responding to requests under this Convention, the channels of the International Criminal Police Organization (INTERPOL) may be used in urgent cases and if the requesting and requested States Parties have so agreed.

5. Each State Party shall have an equal right to the protection of its information resources and critical information infrastructures from misuse and unauthorized interference, including computer attacks against them.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

Proposal 6

General principles relating to international cooperation

The Parties shall cooperate with each other, in accordance with the provisions of this chapter, and through the application of relevant international instruments on international cooperation in criminal matters, including rights arising pursuant to obligations they have undertaken under the applicable international human rights instruments, arrangements agreed on the basis of uniform or reciprocal legislation, and domestic laws, and which shall incorporate the principle of proportionality, to the widest extent possible for the provisions on criminalization of this Convention.

Provisional measures

1. At the express request of another State, provisional measures may be taken by the competent authority to preserve the existing situation, to safeguard threatened legal interests or to protect jeopardized evidence unless the proceedings clearly appear to be inadmissible or inappropriate.

2. If any delay would jeopardize the proceedings and if there is sufficient information to determine whether all the conditions are met, provisional measures may be ordered as soon as a request is announced. Such measures shall be revoked if the foreign State does not make the request within the deadline set.

Principle of non-discrimination

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in this Convention or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

(Switzerland)

B. Conditions and safeguards

Proposal 1

1. States Parties shall ensure that any cooperation on the basis of this chapter is subject to conditions and safeguards provided for under their domestic laws, which shall provide for the adequate and full protection of human rights and fundamental freedoms, in line with international human rights standards, including rights arising pursuant to obligations undertaken under the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984, the Convention on the Rights of the Child of 1989, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and other international and regional human rights instruments, and which shall incorporate the principles of legality, necessity and proportionality, and the rights to a fair trial and to the protection of privacy and personal data.

2. Such conditions and safeguards shall, as appropriate in view of the nature of the procedure or power concerned, inter alia, include judicial or other independent supervision, grounds justifying application, and limitation of the scope and the duration of such power or procedure.

3. States Parties may, as appropriate in view of the nature of the procedure or power concerned, make cooperation on the basis of this chapter conditional upon specific requirements to maintain higher levels of protection of human rights and fundamental freedoms in accordance with their legal and administrative frameworks, in particular for the protection of the right of individuals to an effective remedy, the right to a fair trial or the right of defence, and for the protection of privacy and personal data. Such requirements may be satisfied by arrangements or additional agreements between the States Parties concerned. States Parties are encouraged to enter into additional agreements or provide for arrangements that provide for the requisite levels of protection of human rights and fundamental freedoms, to facilitate cooperation in accordance with their legal and administrative frameworks.

4. To the extent that it is consistent with the public interest, in particular the sound administration of justice, each State Party shall consider the impact of the powers and procedures in this chapter upon the rights, responsibilities and legitimate interests of individuals and third parties.

(European Union and its member States)

Proposal 2

1. Each Party shall ensure that the establishment, implementation and application of the powers and procedures provided for in this section are subject to conditions and safeguards provided for under its domestic law, which shall provide for the adequate protection of human rights and liberties, including rights arising pursuant to obligations it has undertaken under the International Covenant on Civil and Political Rights of 1966, and other applicable international human rights law, and which shall incorporate the principle of proportionality.
2. Such conditions and safeguards shall, as appropriate in view of the nature of the procedure or power concerned, inter alia, include judicial or other independent supervision, grounds justifying application, and limitation of the scope and the duration of such power or procedure.
3. To the extent that it is consistent with the public interest, in particular the sound administration of justice, each Party shall consider the impact of the powers and procedures in this section upon the rights, responsibilities and legitimate interests of third parties.

(United Kingdom of Great Britain and Northern Ireland)

C. Protection of personal data**Proposal 1**

1. Personal data transmitted from one State Party to another State Party at a request made in accordance with this Convention may be used by the State Party to which the data is transmitted only for the purposes of criminal, administrative or civil proceedings and other judicial or administrative procedures directly related to those proceedings, as well as to prevent an imminent and serious threat to the public safety of persons whose personal data is transmitted.
2. The States Parties, while seeking or providing assistance under paragraph 1, shall take the following reasonable safeguards as per their domestic laws:
 - (a) Data, including personal data, must be obtained and processed fairly and lawfully and must be appropriate, relevant and not excessive with regard to the purposes for which it is sought and transferred;
 - (b) The requesting State Party shall inform the requested State Party of the period for which the data is required. Such period shall be consented to by the requested State Party. The transferred data shall be kept for no longer than the period required for the purpose for which it has been received and shall be returned to the requested State Party or deleted at the end of the period specified. The requesting State Party shall inform the requested State Party in advance in case the data has to be kept for a longer period in the requesting State Party;
 - (c) The competent authorities of the States Parties shall take all reasonable measures to prevent the transfer of inaccurate, incomplete or out-of-date data. If it is established that inaccurate or non-transferable data has been transferred, the requesting State Party shall immediately inform the requested State Party and provide correct or accurate data. The requesting State Party shall delete or return any such inaccurate data received;
 - (d) No data transferred to the requesting State Party under this agreement may be transferred to a third country, a private individual or an international body without the consent of the requested State Party which provided the data;
 - (e) The States Parties shall take appropriate measures to ensure that the data transferred to them is protected from accidental or unauthorized destruction, accidental loss and unauthorized access, modification or dissemination;
 - (f) Parties shall keep a record of the data transferred and its destruction.

3. A State Party transmitting personal data at a request made in accordance with this Convention may request that the State Party to which the data has been transmitted provide information about its use.

(Brazil)

Proposal 2

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, as well as to prevent an imminent and serious threat to the public safety of those persons whose personal data are transmitted.

2. Such personal data may not be shared with a third party without the prior written consent of the State Party that has transmitted the data or of the person concerned.

3. 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 on their use.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

D. Extradition

Proposal 1

1. (a) This article applies to extradition between States Parties for the offences established in accordance with articles 4 through 15 of this Convention, provided that they are punishable under the domestic laws of both States Parties concerned by imprisonment or other deprivation of liberty for a maximum period of at least [...], or by a more severe penalty.

(b) Where a different minimum penalty is to be applied under an arrangement agreed on the basis of uniform or reciprocal legislation or an extradition treaty, applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply.

2. The offences described in paragraph 1 of this article shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the States Parties. The Parties undertake to include such offences as extraditable offences in any extradition treaty to be concluded between or among them.

3. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis for extradition with respect to any offence referred to in paragraph 1 of this article.

4. Parties that do not make extradition conditional on the existence of a treaty shall recognize the criminal offences referred to in paragraph 1 of this article as extraditable offences between themselves.

5. Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds on which the requested Party may refuse extradition.

6. If extradition for a criminal offence referred to in paragraph 1 of this article is refused solely on the basis of the nationality of the person sought, or because the requested Party deems that it has jurisdiction over the offence, the requested Party shall submit the case at the request of the requesting Party to its competent authorities for the purpose of prosecution and shall report the final outcome to the requesting Party in due course. Those authorities shall take their decision and conduct their

investigations and proceedings in the same manner as for any other offence of a comparable nature under the law of that Party.

7. Any person regarding whom proceedings are being conducted 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 for by the International Covenant on Civil and Political Rights and the domestic law of the State Party in the territory of which that person is present.

8. 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 extradition request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, language, religion, nationality or ethnic origin, or that compliance with the request would cause prejudice to that person's position for any one of those reasons, or that the extradition request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence.

(Brazil)

Sources: Council of Europe Convention on Cybercrime, article 24 (for paragraphs 1–6) and the proposal submitted by the Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan) (for paragraphs 7 and 8).

Proposal 2

[1. This article shall apply to the offences covered by this Convention as set out in the [articles on criminalization], 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.: Canada]

[1. This article shall apply to extradition between States Parties for the offences established in accordance with [chapter II of: European Union] this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party.: European Union, United States]

[1. This Article shall apply to the criminal offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.: Jamaica on behalf of CARICOM]

[1. This article shall apply to the offences covered by this Convention or in cases where an offence referred to in article [...], paragraph [...], involves an organized criminal group and the person who is the subject of the request for extradition is located 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.: United Republic of Tanzania]

[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.: Jamaica on behalf of CARICOM]

[3. If the request for extradition includes several separate serious crimes, [some of which are not covered by this article,": Canada, United Republic of Tanzania, United States] [at least one of which is extraditable under this article, and the others do not fulfil the conditions set out under paragraph 1,": European Union] the requested State Party may apply this article also in respect of the latter offences.: Canada, European Union, United Republic of Tanzania, United States]

[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.: Jamaica on behalf of CARICOM]

4. [Subject to the reservations that may be made by States Parties on what constitutes an extraditable offence under this Convention,: European Union] Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. [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 a political offence.: Jamaica on behalf of CARICOM]

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

6. [States Parties: Canada, United Republic of Tanzania, United States] [A State Party: European Union, Jamaica on behalf of CARICOM] that make extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of [their: Canada, United Republic of Tanzania, United States] [its: European Union, Jamaica on behalf of CARICOM] 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.

7. [Subject to the reservations that may be made by States Parties on what constitutes an extraditable offence under this Convention,: European Union] 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.

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

9. States Parties shall, subject to their domestic law [and in appropriate circumstances,: Canada] endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies [absent from European Union's proposal].

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.

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, 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 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.

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender [one of its nationals: Canada, Jamaica on behalf of CARICOM, United Republic of Tanzania, United States] [a person: European Union] only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph [10: Canada, United Republic of Tanzania, United States] [11: Jamaica on behalf of CARICOM] [9: European Union] 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,: Canada, Jamaica on behalf of CARICOM] United Republic of Tanzania] [of the nationality of the person sought,: European Union] the requested Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting Party, consider the enforcement of the sentence that has been imposed under the domestic law of the requesting Party or the remainder thereof.

14. [Any person regarding whom proceedings are being carried out: Canada, European Union, United Republic of Tanzania, United States] [A person against whom proceedings are being taken: Jamaica on behalf of CARICOM] in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, [including: Canada, Jamaica on behalf of CARICOM, United Republic of Tanzania, United States] [including in accordance with the conditions and safeguards set out in article 2 in this chapter, as well as the: European Union] enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's [sex, race, religion, nationality, language, colour, sexual orientation, mental or physical disability, ethnic origin or political opinions: Canada] [sex, race, religion, nationality, ethnic origin or political opinions: Jamaica on behalf of CARICOM, United Republic of Tanzania] [sex, colour, race, language, religion, ethnic origin or political or other opinions, national or social origin, birth or other status: European Union] or that compliance with the request would cause prejudice to that person's position for any one of these reasons. [absent from United States' proposal].

16. [States Parties: Canada, European Union, United Republic of Tanzania, United States] [A State Party: Jamaica on behalf of CARICOM] may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information [relevant to its allegation: Canada, Jamaica on behalf of CARICOM] United Republic of Tanzania] [on the reasons on the basis of which it intends to refuse extradition: European Union].

18. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

[19 The requested State Party shall inform the requesting State Party of its decision with regard to the extradition.: European Union]

(Canada, European Union and its member States, Jamaica on behalf of CARICOM, United Republic of Tanzania, United States of America)

Source: Organized Crime Convention, article 16.

Proposal 3

1. Offenders shall be exchanged between States Parties for the offences set forth above, provided that the offences are punishable under the legislation of the States Parties concerned. A State Party whose legislation so allows may agree to a request to extradite a person for an offence covered by the Convention that is not punishable under its national legislation.
2. The offences stipulated above shall be considered extraditable offences for offenders who commit them in respect of any extradition treaty existing between the States Parties.
3. 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, the Convention may be considered a legal basis for extradition.
4. An extradition shall be subject to the conditions stipulated in the legislation of the requested State Party or to the conditions contained in applicable extradition treaties, including in respect of the grounds on which the State Party can reject the request.
5. Each State Party may refrain from extraditing its citizens, in which case it shall, within the limits of its jurisdiction, indict those of its citizens who commit, in any other State Party, offences punishable under the legislation of both States Parties by a penalty of deprivation of liberty, if the other State Party forwards to it a request to prosecute such citizen, accompanied by the files, documents, information and evidence in its possession. The requesting State Party shall be informed of what has been done regarding its request, and a determination shall be made of the nationality of the offender on the date of the offence for which extradition is requested.
6. States Parties shall endeavour, subject to their national legislation, to expedite extradition procedures and to simplify the related evidentiary requirements in respect of any offence to which this article applies.
7. A requested State Party, subject to its national legislation and extradition treaties, may, upon being satisfied that the circumstances so warrant and are urgent, and at the request of the requesting State Party, take into custody a person whose extradition is sought and who is present in its territory, or it may take other appropriate measures to ensure that such person is present at extradition proceedings.
8. If an extradition request submitted for the purpose of executing a court ruling is refused on the grounds that the person whose extradition is sought is a national of the requested State Party, the requested State Party shall, if permitted by and in accordance with its national legislation, consider, at the request of the requesting State Party, the enforcement of the penalty imposed under the national legislation of the requesting party, or of any portion of such penalty still outstanding.
9. Any person regarding whom proceedings are being conducted 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 for by the national legislation of the State Party in the territory of which that person is present.
10. Nothing in the Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the extradition request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, language, religion or nationality, or that compliance with the request would cause prejudice to that person's position for any one of those reasons.
11. States Parties shall not be able to refuse a request for extradition simply because the offence is an offence relating to financial matters.
12. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party in order to provide the latter with ample

opportunities to present its views and to provide information relevant to the facts set forth in its request.

13. Each State Party shall, at the time it deposits its instrument of ratification or adoption, be obliged to notify a specialized body, to be agreed upon, of the contact information of the authority responsible for requests for extradition or procedural arrest and to update that body periodically.

(Egypt)

Proposal 4

1. This article applies to extradition between States Parties for the criminal offences covered under this Convention where the person who is the subject of the request is located 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.

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

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

4. 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.

5. 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.

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

7. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

8. 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.

9. 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 or the State Party deems that it has jurisdiction over the offence, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence

of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

10. Whenever a State Party is permitted under its domestic law to extradite one of its nationals only on 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 was sought and that State Party and the State Party seeking the extradition agree with this option and other terms that they may deem appropriate, such conditional extradition shall be sufficient to discharge the obligation set forth in paragraph 9 of this article.

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

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

13. 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 for a political offence or on account of that person's gender, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

14. Extradition shall be refused if the time limit for the action or sentence has expired under the domestic laws of the requesting or requested State at the time of receipt of the application from the requesting State.

15. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

16. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

17. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

(Ghana)

Sources: Council of Europe Convention on Cybercrime and Organized Crime Convention.

Proposal 5

1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of a 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 deprivation of liberty for at least one year or by a heavier penalty.

2. The criminal offences covered by articles 6–28 of this Convention shall be deemed to be included as extraditable offences 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. A State Party whose domestic 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 a political offence.

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable owing to the penalties applicable to them 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. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.

5. A State Party that makes extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) If it does 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.

6. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article is applicable as extraditable offences between themselves.

7. 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 relating to the minimum penalty requirements for extradition and the grounds upon which the requested State Party may refuse extradition.

8. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto, if any, in respect of any offence to which this article applies.

9. The requested State Party may refuse extradition where such extradition may prejudice its sovereignty, security, ordre public or other essential public interests.

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 into custody a person whose extradition is sought and who is present in its territory or take other appropriate measures to ensure that person's presence at extradition proceedings, including surrender of the extradited person to the requesting State Party.

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, shall, without exception, 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 under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary matters, to ensure the efficiency of such prosecution.

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition

or surrender shall be sufficient to discharge the obligation set forth in paragraph 10 of this article.

13. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the International Covenant on Civil and Political Rights and the domestic law of the State Party in the territory of which that person is present.

14. 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 extradition request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, language, religion, nationality or ethnic origin or that compliance with the request would cause prejudice to that person's position for any one of those reasons.

15. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party in order to provide it with ample opportunity to present its views and to provide information relevant to the facts set forth in its request.

16. States Parties shall seek to conclude bilateral and multilateral treaties or arrangements to carry out or to enhance the effectiveness of extradition.

17. Each State Party shall designate a central authority that shall have the responsibility to receive requests for extradition and to execute them. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time the State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

Proposal 6

1. (a) This article applies to extradition between Parties for the criminal offences established in accordance with the provisions on criminalization of this Convention, provided that they are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least one year, or by a more severe penalty.

(b) Where a different minimum penalty is to be applied under an arrangement agreed on the basis of uniform or reciprocal legislation or an extradition treaty applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply.

2. Extradition shall be subject to the conditions and safeguards provided for by the law of the requested Party or by applicable extradition and human rights treaties, including the grounds on which the requested Party may refuse extradition.

3. If extradition for a criminal offence referred to in paragraph 1 of this article is refused solely on the basis of the nationality of the person sought, or because the requested Party deems that it has jurisdiction over the offence, the requested Party shall submit the case at the request of the requesting Party to its competent authorities for the purpose of prosecution and shall report the final outcome to the requesting Party in due course. Those authorities shall take their decision and conduct their investigations and proceedings in the same manner as for any other offence of a comparable nature under the law of that Party.

4. (a) 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 authority responsible for making or receiving requests for extradition or provisional arrest.

(b) 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.

(Switzerland)

Proposal 7

1. (a) This article applies to extradition between Parties for the criminal offences established in accordance with the offences set out in this Convention, provided that they are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least one year, or by a more severe penalty;

(b) Where a different minimum penalty is to be applied under an arrangement agreed on the basis of uniform or reciprocal legislation or an extradition treaty, including the European Convention on Extradition, applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply.

2. The criminal offences described in paragraph 1 of this article shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the Parties. The Parties undertake to include such offences as extraditable offences in any extradition treaty to be concluded between or among them.

3. Parties that do not make extradition conditional on the existence of a treaty shall recognize the criminal offences referred to in paragraph 1 of this article as extraditable offences between themselves.

4. Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds on which the requested Party may refuse extradition.

5. If extradition for a criminal offence referred to in paragraph 1 of this article is refused solely on the basis of the nationality of the person sought, or because the requested Party deems that it has jurisdiction over the offence, the requested Party shall submit the case at the request of the requesting Party to its competent authorities for the purpose of prosecution and shall report the final outcome to the requesting Party in due course. Those authorities shall take their decision and conduct their investigations and proceedings in the same manner as for any other offence of a comparable nature under the law of that Party.

6. (a) 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 authority responsible for making or receiving requests for extradition or provisional arrest in the absence of a treaty.

(b) 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 at all times.

(United Kingdom of Great Britain and Northern Ireland)

E. Non bis in idem

Proposal 1

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;
 - (c) 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;
 - (c) 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.

(Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan))

F. Transfer of sentenced persons

Proposal 1

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established under this Convention, in order that they may complete their sentences there.

(Canada, Egypt, Jamaica on behalf of CARICOM, United Republic of Tanzania, United States of America)

Source: Organized Crime Convention, article 17; Convention against Corruption, article 45.

Proposal 2

States Parties shall consider entering into bilateral or multilateral treaties or other arrangements on the transfer of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention to enable such persons to serve their sentences in the territory of those States Parties.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

G. General principles relating to mutual assistance

Proposal 1

1. The States Parties shall afford one another mutual assistance to the widest extent possible for [the purpose of investigations or proceedings concerning offences related to computer systems and data, or for the collection of evidence in electronic form of any offence, including information conveyed by wire, radio, optical, satellite or other electromagnetic networks, irrespective of the type of data conveyed: Brazil] [the provisions on criminalization of this Convention: Switzerland] [for the purpose of 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: United Kingdom].

2. Each State Party shall also adopt such legislative and other measures as may be necessary to carry out the obligations set forth in [articles 32 through 39 and article 53: Brazil] [this Convention: Switzerland] [the articles relating to mutual legal assistance and the use of procedural law to support requests from other Parties: United Kingdom].

3. Each State Party may, in urgent circumstances, make requests for mutual [legal: Switzerland] assistance or communications related thereto by expedited means of communication, including fax or email, to the extent that such means provide appropriate levels of security and authentication (including the use of encryption, where necessary), with formal confirmation to follow, where required by the requested State Party. The requested State Party shall accept and respond to the request by any such expedited means of communication.

4. [Except as otherwise specifically provided in articles in this chapter,: Brazil, United Kingdom] Mutual assistance shall be subject to the conditions [provided for by the law of the requested State Party: Brazil, United Kingdom] [conditions and safeguards provided for by the law of the requested: Switzerland] or by applicable mutual [legal: Switzerland] assistance [or human rights: Switzerland] treaties, including the grounds on which the requested State Party may refuse cooperation. [The requested State Party shall not exercise the right to refuse mutual assistance in relation to the offences referred to in articles 4 through 15 solely on the ground that the request concerns an offence which it considers a fiscal offence.: Brazil, United Kingdom]

5. Where, in accordance with the provisions of this chapter, the requested State Party is permitted to make mutual assistance conditional upon the existence of dual criminality, that condition shall be deemed fulfilled, irrespective of whether its laws place the offence within the same category of offence or denominate the offence by the same terminology as the requesting Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under its laws.

(Brazil, Switzerland, United Kingdom of Great Britain and Northern Ireland)

Source: Council of Europe Convention on Cybercrime.

H. Mutual legal assistance

Proposal 1

[1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention as provided for in [articles on criminalization] and shall may also reciprocally extend to one another similar assistance where the requesting State Party seeks the collection of evidence in electronic form of a criminal offence.: Canada]

[1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the

criminal offences established in accordance with this Convention.: Jamaica on behalf of CARICOM]

[1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention as provided for in article [...] and shall reciprocally extend to one another similar assistance where the requesting State Party has reasonable grounds to suspect that the offence referred to in article [...], paragraph [...], is transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State Party and that the offence involves an organized criminal group.: United Republic of Tanzania]

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with [article 10: Canada, United Republic of Tanzania] [(Criminal Liability of Legal Persons): Jamaica on behalf of CARICOM] of this Convention in the requesting State Party.

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

- (a) Taking evidence or statements from persons;
- (b) Effecting service of judicial documents;
- (c) Executing searches and seizures, and freezing;
- (d) Examining [electronic information/data: Jamaica on behalf of CARICOM] objects and sites;
- (e) Providing information, evidentiary items [to include electronic information,: Jamaica on behalf of CARICOM] and expert evaluations;
- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
- (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
- (h) Facilitating the voluntary appearance of persons in the requesting State Party;
- (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party.

[(j) Identifying, freezing and tracing proceeds of crime in accordance with (Chapter Asset Recover) of this Convention;

(k) The recovery of assets, in accordance with (Chapter Asset Recovery) of this Convention.: Jamaica on behalf of CARICOM]

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

5. The transmission of information pursuant to paragraph 4 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.: Jamaica on behalf of CARICOM, United Republic of Tanzania]

6. [The provisions of: Canada, United Republic of Tanzania] 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.

7. Paragraphs 9 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty 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 9 to 29 of this article [in lieu thereof. States Parties are strongly encouraged to apply these paragraphs if they facilitate cooperation: Canada, United Republic of Tanzania] [instead of the treaty: Jamaica on behalf of CARICOM].

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

9. [A requested State Party, in responding to a request for assistance pursuant to this Article in the absence of a dual criminality, shall take into account the purposes of this Convention, as set forth in Article 1.: Jamaica on behalf of CARICOM] 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.: Canada, United Republic of Tanzania] [However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action, but such 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 Articles of this Convention. Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this Article in the absence of dual criminality.: Jamaica on behalf of CARICOM]

10. 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 investigations, prosecutions or judicial proceedings in relation to [criminal: Jamaica on behalf of CARICOM] offences [covered by: Canada, United Republic of Tanzania] [established in accordance with: Jamaica on behalf of CARICOM] 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 [,to the transfer: Jamaica on behalf of CARICOM].

11. For the purposes of paragraph 10 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.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her 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.

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. [The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.: Canada, United Republic of Tanzania] [The Secretary-General of the United Nations shall be notified of the central authority designated for the purpose of paragraph 15 at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related to such assistance shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.: Jamaica on behalf of CARICOM]

14. Requests [under paragraph 17: Jamaica on behalf of CARICOM] shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. [In urgent circumstances and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.: Jamaica on behalf of CARICOM, United Republic of Tanzania]

[15. Each State Party may, in urgent circumstances, make requests for mutual legal assistance or communications related thereto by expedited means of communication, including fax or email, to the extent that such means provide appropriate levels of security and authentication (including the use of encryption, where necessary), with formal confirmation to follow, where required by the requested State Party. The requested State Party shall accept and respond to the request by any such expedited means of communication.: Canada]

[16. The requested State Party shall accept a request 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.: Jamaica on behalf of CARICOM]

17. A request for mutual legal assistance shall contain:
 - (a) The identity of the authority making the request;
 - (b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;
 - (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
 - (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;
 - (e) Where possible, the identity, location and nationality of any person concerned; and
 - (f) The purpose for which the evidence, information or action is sought.
18. 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.
19. 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.
20. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness 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.
21. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. [Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.: Jamaica on behalf of CARICOM, United Republic of Tanzania]
22. 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.
23. Mutual legal assistance may be refused:
 - (a) If the request is not made in conformity with the provisions of this article;
 - (b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;
 - (c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted;

[(e) If the use of resources required to execute the request are not justified in light of the minor nature of the alleged criminal conduct.: Canada]

24. 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.

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

26. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. [The requested State Party shall respond to reasonable requests by the requesting State Party on 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.: Canada, United Republic of Tanzania] [The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.: Jamaica on behalf of CARICOM]

27. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

28. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

29. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of 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 judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

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

31. 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.

32. 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.

(Canada, United Republic of Tanzania)

Source: Organized Crime Convention, article 18, with modifications.

Proposal 2

1. All States Parties shall provide mutual assistance to the fullest extent possible for the purpose of investigations, procedures related to the offences set forth in the Convention or the gathering of electronic evidence of those offences.

2. A request for bilateral assistance and communications related thereto shall be submitted in writing. Each State Party may, in emergency cases, submit an urgent request, including by email, provided such communications are reasonably secure (including the use of encryption) and referenced, and transmission is confirmed as requested by the State Party.

3. Except as provided in the Convention, bilateral assistance shall be subject to the conditions stipulated in the legislation of the requested State Party or in mutual assistance treaties, including the grounds on which the requested State Party may refuse to cooperate.

4. When the State Party from which mutual assistance is requested can provide assistance only if there is dual criminality, the condition of dual criminality shall be considered fulfilled regardless of whether the laws of the State Party classify the relevant offence in the same category as the requesting State Party.

5. Procedures related to requests for cooperation and mutual assistance:

(a) The subparagraphs of this paragraph shall be applied in the absence of a mutual assistance and cooperation treaty or convention between the requesting and requested State Party based on legislation in force. Should such a treaty or convention exist, then said subparagraphs shall not be applied unless the concerned parties agree to apply them in whole or in part;

(b) Each State Party shall designate a central authority for transmitting, receiving and granting requests for mutual legal assistance or referring them to the competent authority. The contact information of the central authority shall be updated periodically;

(c) Mutual assistance requests under this article shall be implemented according to the procedures specified by the requesting State Party, provided that they are not inconsistent with the legislation of the requested State Party;

(d) The requested State Party may postpone taking measures in response to the request if such measures could affect criminal investigations being conducted by its authorities;

(e) A requested State Party may refuse to provide assistance if it believes that the execution of a request would violate its sovereignty, security, order or basic interests, in addition to refusing to provide assistance on the grounds for refusal mentioned in the above paragraphs;

(f) Before refusing or postponing assistance, the requested State Party shall determine whether to grant the request in part or subject to such conditions as it deems appropriate, after consultations with the requesting State Party;

(g) The requested State Party shall inform the requesting State Party of the results of the execution of the request. In the event that the request is refused or its

final execution is postponed, the requested State Party shall be obliged to notify the requesting State Party of the reasons for such refusal or significant postponement;

(h) The requesting State Party may request the requested State Party to maintain the confidentiality of a request only insofar as it is consistent with the fulfilment of the request. If the requested State Party cannot comply with the request for confidentiality, it shall so notify the requesting State Party. The requesting State Party shall then decide the extent to which the request can be fulfilled;

(i) In urgent cases, requests for mutual assistance may be sent directly to the judicial authorities in the requested State Party from their counterpart in the requesting State Party. In such cases, a copy of the request must be sent at the same time by the central authority in the requesting State Party to its counterpart in the requested State Party;

(j) Communications and requests undertaken under the preceding subparagraph may be made through the International Criminal Police Organization (INTERPOL).

(Egypt)

Proposal 3

1. States Parties shall afford one another the widest measure of mutual legal assistance in accordance with the provisions of this chapter, including the conditions and safeguards set out in article 2, for the purpose of investigations, prosecutions and judicial proceedings concerning criminal offences defined in this Convention.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to carry out the obligations set forth in this chapter.

3. Mutual legal assistance shall be afforded to the fullest extent possible in accordance with the provisions of this chapter, including the conditions and safeguards set out in article 2 of this chapter under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article [...] [on liability of legal persons] of this Convention in the requesting State Party.

4. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

(a) Taking evidence or statements from persons, including representatives of legal persons;

(b) Collecting, preserving and sharing electronic evidence concerning offences defined in this Convention;

(c) Effecting service of judicial documents;

(d) Executing searches and seizures;

(e) Examining objects and sites;

(f) Providing information, evidentiary items and expert evaluations;

(g) Providing originals or certified copies of relevant documents and records;

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

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

(j) Any other type of assistance that is not contrary to relevant international law and the domestic law of the requested State Party.

5. 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.

6. Except as otherwise specifically provided in articles in this chapter, mutual assistance shall be subject to the conditions provided for by the law of the requested Party or by applicable mutual assistance treaties, including the grounds on which the requested Party may refuse cooperation. The requested Party shall not exercise the right to refuse mutual assistance in relation to the offences referred to in this Convention solely on the ground that the request concerns an offence which it considers a fiscal offence.

7. Paragraphs 8 to 22 of this article 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 8 to 22 of this article in lieu thereof.

8. 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.

9. Each State Party shall designate a central authority or authorities that shall have the responsibility and power to send and receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Central authorities shall communicate directly with each other, while ensuring appropriate levels of security and authentication of all means of communication used. They shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible. Each State Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, at any time thereafter, communicate to the Secretary-General of the United Nations the names and addresses of the authorities designated in pursuance of this paragraph. 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. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties.

10. Requests shall be made in writing or, where possible, by any means capable of producing a written record, to the extent that such means provide appropriate levels of security and authentication (including the use of encryption, where necessary), in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention.

11. Each State Party may, in urgent circumstances, make requests for mutual assistance or communications related thereto by expedited means of communication, to the extent that such means provide appropriate levels of security and authentication (including the use of encryption, where necessary), with formal confirmation to follow, where required by the requested State Party. The requested State Party shall accept and respond to the request by any such expedited means of communication.

12. A request for mutual legal assistance shall contain:
 - (a) Information on the identity and competence of the authority making the request;
 - (b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;
 - (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
 - (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;
 - (e) Where possible, the identity, location and nationality of any person concerned; and
 - (f) The purpose for which the evidence, information or action is sought.
13. 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.
14. 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.
15. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by videoconference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.
16. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.
17. 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, which shall then determine whether the request should nevertheless be executed.
18. In addition to the conditions for mutual legal assistance provided in paragraph 6, the requested State Party may also refuse assistance:
 - (a) If the request is not made in conformity with the provisions of this article;
 - (b) If the request concerns an offence which the requested State Party considers a political offence or an offence connected with a political offence;
 - (c) 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 or fundamental freedoms, in particular the

right of individuals to an effective remedy, the right to a fair trial or the right of defence, and the protection of privacy and personal data;

(d) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(e) 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.

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

20. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on 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.

21. Mutual legal assistance may be postponed by the requested State Party on the ground that it would prejudice a criminal investigation, prosecution or judicial proceeding.

22. Before refusing a request pursuant to paragraph 17 of this article or postponing its execution pursuant to paragraph 20 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.

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

24. 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.

(European Union and its member States)

Proposal 4

1. States Parties shall provide mutual legal assistance for the purpose of investigations, prosecution or judicial proceedings with respect to offences and other illegal acts relating to ICT use.

2. Each State Party shall take such legislative and other measures as may be necessary to comply with the obligations set forth in articles 55, 56, 59–62 and 66 of this Convention. Each State Party shall also consider increasing (extending or suspending) the statute of limitations period in order to prevent the evasion of liability.

3. Unless otherwise provided for in the articles of this chapter, mutual legal assistance shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable mutual legal assistance treaties, including the grounds on which the requested State Party may refuse cooperation in whole or in part.

4. Each State Party shall designate a central authority that shall have the responsibility to receive requests for mutual legal assistance and to execute them. The Secretary-General of the United Nations shall be notified of the central authority

designated for this purpose at the time the State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

Proposal 5

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and other proceedings in relation to the offences established under this Convention, and for the collection of evidence in electronic form of a serious criminal offence.

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and other proceedings in relation to the offences for which a legal person may be held liable in accordance with article [on liability of legal persons] of this Convention in the requesting State Party, without prejudice to article [on the general provisions on international cooperation].

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes with respect to conduct required to be criminalized by this Convention in articles [on criminalization]:

- (a) Taking evidence or statements from persons;
- (b) Effecting service of judicial documents;
- (c) Executing searches and seizures, and freezing assets;

(d) Searching or similarly accessing, seizing or similarly securing, and disclosing, data stored by means of a computer system located within the territory of the requested State Party, including data that has been preserved pursuant to article [on the expedited preservation of stored computer data];

(e) Collecting real-time traffic data 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 offences for which real-time collection of traffic data would be available in a similar domestic case of the requested State Party;

(f) Collecting or recording content data of specified communications transmitted by means of a computer system, to the extent permitted under the States Parties' applicable treaties and domestic laws;

- (g) Examining objects and sites;
- (h) Providing information, evidentiary items and expert evaluations;

(i) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;

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

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

- (l) Transferring proceedings for prosecution;

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

4. Mutual legal assistance shall also be afforded for the collection of evidence in electronic form for investigations, prosecutions or other proceedings in relation to serious criminal offences.

5. 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 to this Convention.
6. The transmission of information pursuant to paragraph 5 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, in advance, of the intended disclosure. 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.
7. 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.
8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.
9. Paragraphs 10 to 30 of this article 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 10 to 30 of this article in lieu thereof. States Parties are strongly encouraged to apply these paragraphs if they facilitate cooperation.
10. 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. 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.
11. 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 investigations, prosecutions or other 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.
12. For the purposes of paragraph 11 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.

13. Unless the State Party from which a person is to be transferred in accordance with paragraphs 11 and 12 of this article so agrees, that person, whatever his or her 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.

14. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible. Where not prohibited by the laws of the respective States Parties, 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.

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

16. A request for mutual legal assistance shall contain:

- (a) The identity of the authority making the request;
- (b) The subject matter and nature of the investigation, prosecution or other proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or other proceeding;
- (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
- (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;
- (e) As appropriate, the identification, location and nationality of any person, item, or accounts concerned; and
- (f) The purpose for which the evidence, information or other assistance is sought.

17. 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.
18. 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.
19. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by videoconference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.
20. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or other proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.
21. 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.
22. Mutual legal assistance may be refused:
- (a) If the request is not made in conformity with the provisions of this article;
 - (b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests;
 - (c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or other proceedings under their own jurisdiction;
 - (d) If the request is disproportionate to the offence under investigation or prosecution; or
 - (e) 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.
23. 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.
24. Reasons shall be given for any refusal of mutual legal assistance.
25. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on 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.

26. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or other proceeding.

27. Before refusing a request pursuant to paragraph 22 of this article or postponing its execution pursuant to paragraph 26 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

28. Without prejudice to the application of paragraph 13 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation or prosecution 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 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.

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

30. The requested State Party:

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

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

31. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article. (Adapted from Organized Crime Convention, article 18)

32. This article applies solely to the provision of mutual legal assistance among States Parties. Its provisions shall not create any right on the part of any private person to obtain or exclude evidence or to impede execution of any request for assistance.

(United States of America)

I. Spontaneous information

Proposal 1

1. A State Party may, within the limits of its domestic law and without prior request, forward to another State Party information 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: Brazil, Ghana, Switzerland, United Kingdom] [undertaking or successfully concluding: European Union] investigations or proceedings concerning criminal offences [established in

accordance with: Brazil, Ghana, Switzerland, United Kingdom] [defined in this: European Union] this Convention or might lead to a request for cooperation by that Party under this chapter.

2. Prior to providing such information, the providing State Party may request that [it: Brazil, Ghana, Switzerland] [the information it intends to provide: European Union] be kept confidential or only used subject to conditions [by the receiving State: European Union]. 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.

(Brazil, European Union and its member States, Ghana, Switzerland, United Kingdom of Great Britain and Northern Ireland)

Source: Council of Europe Convention on Cybercrime, article 26.

Proposal 2

Provision of information proprio motu

1. A State Party may, in accordance with its [national legislation: Egypt] [domestic law: Russian Federation] and without the prior request of another State Party, forward information gathered during its own investigation if it believes that the disclosure of such information could assist that other State Party [to initiate or conduct an investigation relating to offences established as such under the Convention, or might result in a cooperation request from that State Party: Egypt] [in initiating or conducting an investigation, prosecution or judicial proceeding in relation to offences or other illegal acts established in accordance with this Convention, or could result in the submission by that State Party of a cooperation request pursuant to the provisions of this chapter: Russian Federation].

2. 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: Russian Federation]. If the receiving State Party cannot comply with such a request, it shall notify the providing State Party, which shall decide whether the information should nonetheless be provided. If the receiving State Party accepts [information the confidentiality of which must be maintained, such information must remain confidential: Egypt] [the information under the above-mentioned conditions, those conditions shall be binding for that State Party: Russian Federation].

(Egypt, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

Proposal 3

1. Without prejudice to its domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to the 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 inquires 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 this Article shall be without prejudice to inquiries and criminal proceedings in the State Party of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that the said information shall remain confidential, even temporarily, or with restriction on its use. However, this shall not prevent the receiving State Party from disclosing information in its criminal proceedings 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.

(Jamaica on behalf of CARICOM)

J. Procedures pertaining to mutual assistance requests in the absence of applicable international agreements

Proposal 1

1. Where there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and requested States Parties, the provisions of paragraphs 2 through [9: Brazil, Switzerland, United Kingdom] [13: Ghana] of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the States Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.

2. (a) Each State Party shall designate a central authority or authorities responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution.

(b) The central authorities shall communicate directly with each other.

(c) [Upon previous agreement between central authorities of two States Parties, any documents or other materials transmitted between them, which are related to this Convention, shall be exempt from certification or authentication.: Brazil]

[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 names and addresses of the authorities designated in pursuance of this paragraph;: Ghana, Switzerland, United Kingdom]

[(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.: Ghana, Switzerland, United Kingdom]

3. [The requested Party shall apply its own law as to the methods and procedures to be followed. However, it will follow a request of the requesting Party that a special method or procedure be followed, unless this is incompatible with the domestic law of the requested Party or is impossible of performance by reason of its internal practice and procedure or by reason of practical difficulties.: Brazil] [Mutual assistance requests under this article shall be executed in accordance with the procedures specified by the requesting Party, except where incompatible with the law of the requested Party.: Ghana, Switzerland, United Kingdom]

4. The requested Party may, in addition to the grounds for refusal established in [article 30, paragraph 4: Brazil] [paragraph 4 of article 36, on general principles relating to mutual legal assistance: Ghana] [the provision on general principles relating to mutual legal assistance of this Convention: Switzerland] [article 3, paragraph 4: United Kingdom], refuse assistance if:

(a) The request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence; or

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

5. The requested Party may postpone action on a request if such action would prejudice criminal investigations or proceedings conducted by its authorities.

6. Before refusing or postponing assistance, the requested Party shall, where appropriate after having consulted with the requesting Party, consider whether the request may be granted partially or subject to such conditions as it deems necessary.

7. The requested Party shall promptly inform the requesting Party of the outcome of the execution of a request for assistance. Reasons shall be given for any refusal or postponement of the request. The requested Party shall also inform the requesting Party of any reasons that render impossible the execution of the request or are likely to delay it significantly.

8. The requesting Party may request that the requested Party keep confidential the fact of any request made under this chapter as well as its subject, except to the extent necessary for its execution. If the requested Party cannot comply with the request for confidentiality, it shall promptly inform the requesting Party, which shall then determine whether the request should nevertheless be executed.

9. (a) In the event of urgency, requests for mutual assistance or communications related thereto may be sent directly by judicial authorities of the requesting Party to such authorities of the requested Party. In any such cases, a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party.

(b) Any request or communication under this paragraph may be made through the International Criminal Police Organization (INTERPOL).

(c) Where a request is made pursuant to subparagraph (a) of this article and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and inform directly the requesting Party that it has done so.

(d) Requests or communications made under this paragraph that do not involve coercive action may be directly transmitted by the competent authorities of the requesting Party to the competent authorities of the requested Party.

[(e) Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, inform the Secretary-General of the United Nations that, for reasons of efficiency, requests made under this paragraph are to be addressed to its central authority.: Switzerland, United Kingdom]

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

11. A request for mutual legal assistance shall contain:

(a) The identity of the authority or entity making the request, including contact details;

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

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

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

(e) Where possible, the identity, location and nationality of any person concerned;

(f) The purpose for which the evidence, information or action is sought; and

(g) The period within which compliance with the request is desired, with stated reasons.

12. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by videoconference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

13. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on 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.

14. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, inform the Secretary-General of the United Nations that, for reasons of efficiency, requests made under this paragraph are to be addressed to its central authority.: Ghana]

(Brazil, Ghana, Switzerland, United Kingdom of Great Britain and Northern Ireland)

Sources: Council of Europe Convention on Cybercrime, article 27, with modifications, and Convention on the Taking of Evidence Abroad in Civil or Commercial Matters.

Proposal 2

1. Where no mutual legal assistance treaty exists between the requesting State Party and the requested State Party, the provisions of paragraphs 2–8 of this article shall apply. If such treaty exists, the provisions of this article shall not apply unless the States Parties concerned agree to apply instead any or all of the following provisions of this article.

2. (a) Each State Party shall designate a central authority or authorities responsible for transmitting and responding to requests for mutual legal assistance and for arranging the execution of such requests or their referral to the competent authorities;

(b) The central authority or authorities referred to in subparagraph (a) above shall communicate directly with one another;

(c) Each State Party shall, at the time of deposit of its instrument of ratification, acceptance, approval or accession, inform the Secretary-General of the United Nations of the names and addresses of the authorities designated in accordance with this paragraph;

(d) The Secretary-General of the United Nations shall establish and regularly update a register of central authorities designated by the States Parties. Each State Party shall ensure that the information contained in the register is current.

3. When executing a request for mutual legal assistance, the authorities of the requested State Party shall apply the law of their State. If the requesting authority so requests, the procedural rules of the requesting State may be applied, provided that they are not contrary to the basic principles of the requested State Party's legal system.

4. The requested State Party may refuse to provide legal assistance if:

(a) The request concerns an offence which the requested State Party considers to be an offence against the State or a related offence;

(b) It considers that execution of the request will prejudice its sovereignty, security, ordre public or other vital interests.

5. The requested State Party may postpone taking measures in response to the request if such measures would interfere with criminal investigations or judicial proceedings being conducted by its competent authorities.
6. Before refusing or postponing legal assistance, the requested State Party shall, after consultations with the requesting State Party, as necessary, consider granting the request in part or subject to such conditions as it deems appropriate.
7. The requested State Party shall, as promptly as possible, inform the requesting State Party of the results of execution of the request for legal assistance. In the event that the request is refused or its execution is postponed, reasons shall be given for such refusal or postponement.
8. The requesting State Party may request the requested State Party to ensure the confidentiality of the fact and the subject matter of any request submitted in accordance with the provisions of this chapter, but only to the extent necessary to execute the request. If the requested State Party cannot comply with the request for confidentiality, it shall promptly inform the requesting State Party, which shall then decide whether the request should nonetheless be executed.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

K. Electronic database on mutual legal assistance requests

Proposal 1

Each Party shall consider maintaining electronic databases that facilitate access to statistics relating to incoming and outgoing requests for mutual legal assistance involving electronic evidence, to ensure that reviews of efficiency and effectiveness are in place.

(Ghana)

L. Confidentiality and limitation on use

Proposal 1

1. When there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and the requested States Parties, the provisions of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.

2. The requested Party may make the supply of information or material in response to a request dependent on the condition that it is:

(a) Kept confidential where the request for mutual legal assistance could not be complied with in the absence of such condition; or

(b) Not used for investigations or proceedings other than those stated in the request.

3. If the requesting Party cannot comply with a condition referred to in paragraph 2, it shall promptly inform the other Party, which shall then determine whether the information should nevertheless be provided. When the requesting Party accepts the condition, it shall be bound by it.

4. Any Party that supplies information or material subject to a condition referred to in paragraph 2 may require the other Party to explain, in relation to that condition, the use made of such information or material.

(Brazil, Ghana, Switzerland, United Kingdom of Great Britain and Northern Ireland)

Source: Council of Europe Convention on Cybercrime, article 28.

Proposal 2

In the absence of a treaty or convention on mutual assistance between the requesting and requested States Parties based on legislation in force, this article [*reference is made to the article on "Provision of information proprio motu/Spontaneous information"*] must be applied. It shall not be applied if such convention or treaty exists, unless the concerned States Parties agree to apply it, all or in part.

(Egypt)

Proposal 3

1. Where no mutual legal assistance treaty underpinned by uniform legislation or by legislation based on the principle of reciprocity exists between the requesting State Party and the requested State Party, the provisions of this article shall apply. If such treaty or legislation exists, the provisions of this article shall not apply unless the States Parties concerned agree to apply in lieu thereof any or all of the following provisions of this article.

2. In response to the request, the requested State Party may set the following conditions for the provision of information or material:

(a) The information or material is kept confidential where, in the absence of such a condition, the request for mutual legal assistance could not be granted;

(b) The information or material is not used for any investigations or legal proceedings other than those referred to in the request.

3. If the requesting State Party cannot comply with any of the conditions referred to in paragraph 2 of this article, it shall promptly notify the other State Party thereof; the other State Party shall then decide whether such information can be provided. If the requesting State Party agrees to comply with those conditions, they shall become binding for that State Party.

4. Any State Party providing information or material subject to the conditions referred to in paragraph 2 of this article may, in relation to either condition, request from the other State Party clarifications on the use made of such information or material.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

M. Conducting interrogations and other procedural actions using video or telephone conferencing systems**Proposal 1**

1. Competent authorities of a State Party may, by mutual agreement, provide legal assistance through the use of video or telephone conferencing systems.

2. The video or telephone conferencing systems shall be used in accordance with the legislation of the requested State Party.

If the requested State Party does not have access to the technical means necessary for holding a videoconference, such means may be provided by the requesting State Party by mutual agreement.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

N. Powers of diplomatic missions and consular offices

Proposal 1

1. The 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.
3. In the situations referred to in paragraphs 1 and 2 of this article, no means of coercion or threat thereof may be used.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

O. Mutual emergency assistance

Proposal 1

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.
2. Each State Party may request mutual assistance from another State Party within the shortest possible time if it believes that an emergency exists. A request made in accordance with [under this: Brazil] article should include, among other necessary contents, a description of the facts showing that an emergency exists and its relationship to the assistance requested.
3. The requested State Party shall 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.
4. The requested State Party may, within the shortest possible time, request additional information to assess the request. The requesting State Party shall provide such additional information as promptly as possible.
5. The requested State Party, upon being satisfied that an emergency exists and other requirements for mutual assistance are met, shall respond to the request as promptly as possible.
- [6. Each State Party shall ensure that an official of its competent authority who is responsible for responding to requests for mutual assistance under articles 49 and 52 of this Convention can be contacted 24 hours a day, 7 days a week, to respond to a request made pursuant to this article.
7. The competent authorities responsible for mutual assistance in both the requesting and requested States Parties may agree that the results of execution of a request in accordance with this article, or an advance copy thereof, may be provided to the requesting State Party through an alternative channel of communication other than that normally used for requesting mutual legal 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 or through INTERPOL channels or the 24/7 Network in accordance with article 66 of this Convention. 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.

Each State Party may, at the time of signature of or deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations that, for the sake of efficiency, requests made pursuant to this paragraph should be sent only to the central authority.: Russian Federation]

(Brazil, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

Proposal 2

1. 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.
2. A requested State Party shall accept such a request in electronic form. It may require appropriate levels of security and authentication before accepting the request.
3. 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.
4. Once satisfied that an emergency exists and the other requirements for mutual assistance have been satisfied, the requested State Party shall respond to the request on a rapidly expedited basis.
5. Each State Party shall ensure that a person from its central authority or other authorities responsible for responding to mutual assistance requests is available on a twenty-four hour, seven-day-a-week basis for the purpose of responding to a request under this Article.
6. The central authority or other authorities responsible for mutual assistance of the requesting and requested States Parties may mutually determine that the results of the execution of a request under this Article, or an advance copy thereof, may be provided to the requesting State Party through a channel other than that used for the request.
7. Where there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and requested States Parties, Article 27 (Procedure pertaining to mutual assistance requests in the absence of applicable international instruments) and Article 28 (Confidentiality and limitation on use) of the Budapest Convention shall apply to this Article.
8. Where a treaty or arrangement exists, this Article shall be supplemented by such treaty or arrangement unless the States Parties concerned mutually determine to apply any or all of the provisions of the Convention referred to in paragraph 7 of this Article, in lieu thereof.
9. Each State Party may, at the time of signature of this Convention or when depositing its instrument of ratification, acceptance or approval, declare that requests may also be sent directly to its judicial authorities, or through the channels of the International Criminal Police Organization (INTERPOL) or to its 24/7 point of contact established under Article 35 of the Convention. In any such cases, a copy shall be sent at the same time to the central authority of the requested State Party through the central authority of the requesting State Party. Where a request is sent directly to a judicial authority of the requested State Party and that authority is not competent to deal with the request, it shall refer the request to the competent national authority and inform the requesting State Party directly that it has done so.

(Jamaica on behalf of CARICOM)

P. 24/7 network

Proposal 1

1. Each State Party shall designate a point of contact available on a twenty-four-hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of 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. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the following measures:

(a) The provision of technical advice;

(b) The preservation of data pursuant to [articles 34 and 35: Brazil, Canada] [the articles on the expedited preservation of stored computer data and the expedited disclosure of preserved traffic data: Ghana] [Articles (Expedited Preservation of stored computer data and Expedited Disclosure of Preserved Traffic Data): Jamaica on behalf of CARICOM];

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

2. (a) A State Party's point of contact shall have the capacity to carry out communications with the point of contact of another 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 international mutual assistance or extradition, the point of contact shall ensure that it is able to coordinate with such authority or authorities on an expedited basis.

3. Each Party shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the network.

(Brazil, Canada, Ghana, Jamaica on behalf of CARICOM, United Kingdom of Great Britain and Northern Ireland)

Source: Council of Europe Convention on Cybercrime, article 35.

Proposal 2

Specialized agency

1. Each State Party shall ensure, in accordance with the basic principles of its legal system, the existence of a specialized agency, dedicated around the clock, seven days a week, to ensuring the provision of immediate assistance for the purposes of investigations or procedures related to information technology offences or to collect evidence in electronic form in a particular offence. Such assistance shall include facilitating or implementing:

(a) The provision of technical advice;

(b) The preservation of information based on relevant articles;

(c) The gathering of evidence, provision of legal information and determination of the location of suspects;

(d) The specialized agency in any State Party shall have the ability to communicate with similar agencies in other States Parties on an urgent basis.

2. If the specialized agency designated by any State Party is not part of the authorities of that State Party that are responsible for international bilateral assistance, the specialized agency shall be empowered to coordinate with those authorities expeditiously.

3. Each State Party shall ensure the availability of qualified human resources to facilitate the work of the aforementioned agency.

(Egypt)

Proposal 3

1. Each State Party shall designate a point of contact available on a twenty-four-hour, seven-day-a-week basis, in order to facilitate the provision of assistance for the purpose of investigations or judicial proceedings concerning criminal offences defined in this Convention. Such assistance shall be provided without undue delay and in a secure way.
2. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the following measures:
 - (a) The provision of technical advice;
 - (b) The preservation of data pursuant to article 6 [on expedited preservation];
 - (c) The collection of evidence, the provision of legal information and the locating of suspects.
3. (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 international mutual assistance or extradition, the point of contact shall ensure that it is able to coordinate with such authority or authorities on an expedited basis.
4. Each State Party shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the points-of-contact network.
5. States Parties shall ensure that they make wider use of and strengthen existing authorized networks of law enforcement and criminal justice practitioners, where applicable and within the limits of their domestic laws, including 24/7 networks, specialized networks on cybercrime and International Criminal Police Organization channels for prompt police-to-police cooperation and other methods of informal cooperation, before using mutual legal assistance channels provided for in this chapter.

(European Union and its member States)

Proposal 4

1. Each State Party shall designate a 24/7 point of contact to provide prompt assistance in investigations, prosecutions or judicial proceedings in relation to offences involving computer systems and data or in the collection of offence-related evidence in electronic and digital form. Such assistance shall include support for, or, where permitted under domestic law or practice, direct application of the following measures:
 - (a) Providing technical advice;
 - (b) Ensuring data preservation in order to collect evidence and subsequently provide information in accordance with its domestic law and with mutual legal assistance treaties.
2. Each State Party shall take measures to provide qualified personnel and equipment to facilitate the operation of such a network.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

Proposal 5

1. Each State Party shall designate a point of contact available on a twenty-four-hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations, prosecutions or other proceedings concerning criminal offences established under this Convention, or for the collection of evidence in electronic form of a serious criminal offence.

2. The assistance to be rendered by the point of contact identified in paragraph 1 shall include facilitating, or, if permitted by the domestic law and practice of the State Party, directly carrying out the following measures:

(a) The preservation of data pursuant to article [on preservation];

(b) Providing information which may assist in the preservation of data, including, if available, technical advice and legal information.

3. 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.

4. If the point of contact designated by a State Party is not part of that Party's authority or authorities responsible for international mutual assistance or extradition, the point of contact shall ensure that it is able to coordinate with such authority or authorities on an expedited basis.

5. Each State Party shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the network.

6. This article is without prejudice to State Parties' participation in other 24/7 networks with other participants in those networks.

(United States of America)

Q. Expedited preservation of stored [computer data] [electronic information]

Proposal 1

1. A State Party may request another State Party to order or otherwise obtain the expeditious preservation of data stored by means of a computer system, located within the territory of that other State Party [for the purpose of investigations, prosecutions and judicial proceedings concerning criminal offences defined in this Convention: European Union] and in respect of which the requesting Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the data.

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

(a) The authority seeking the preservation;

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

(c) The stored computer data to be preserved and its relationship to the offence;

(d) Any available information identifying the custodian of the stored computer data or the location of the computer system;

(e) The necessity of the preservation;

(f) That the [requesting: European Union] State Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the stored computer data;

[and (g) The need to keep the request for preservation confidential and to not notify the user.: Brazil, Canada]

3. Upon receiving the request from another State Party, the requested State Party shall take all appropriate measures to preserve expeditiously the specified data [if permitted by, and: European Union] in accordance with its domestic law [unless it refuses assistance on the bases of the grounds set out in article 4, paragraphs 6 and 17 of this chapter: European Union]. [For the purposes of responding to a request, dual criminality shall not be required as a condition to providing such preservation.: Brazil,

Canada, Ghana, Jamaica on behalf of CARICOM, Switzerland, United States, United Kingdom]

4. A State Party that requires dual criminality as a condition for responding to a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of [stored data: Brazil, Canada, European Union, Ghana, Jamaica on behalf of CARICOM, United Kingdom] [the data: United States] [may: Brazil, Canada, European Union, Jamaica on behalf of CARICOM, United Kingdom, United States] [, in respect of offences other than those established in accordance with articles 4 through 15 of this Convention,: Brazil, Canada] [in respect of offences other than those established in accordance with this Convention: United Kingdom] [reserve: Brazil, Canada, European Union, Jamaica on behalf of CARICOM, United Kingdom, United States] [reserves: Ghana] 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 cannot be fulfilled [except for Switzerland].

[5. In addition, a request for preservation may only be refused if:

(a) The request concerns an offence which the requested State Party considers a political offence or an offence connected with a political offence; or

(b) The requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests: Brazil, Canada, Ghana, Jamaica on behalf of CARICOM, United States].

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

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

(Brazil, Canada, European Union and its member States, Ghana, Jamaica on behalf of CARICOM, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America)

Source: Council of Europe Convention on Cybercrime, article 29.

Proposal 2

1. Any State Party may request another State Party to urgently preserve information stored using information technology located within its territory regarding which the requesting State Party would like to submit a request for mutual assistance in order to search, seize, secure or disclose the information.

2. A requested State Party may refuse to implement a preservation request if it believes doing so would threaten its sovereignty, security, order or interests.

(Egypt)

Proposal 3

1. Any State Party may request another State Party to order or take other measures to promptly preserve information which is stored or processed by means of ICTs in the territory of that State Party and in respect of which the requesting State Party intends to submit, within the framework of mutual legal assistance, a request for search or seizure or a request to otherwise preserve or obtain that information.

2. A request for the preservation of information made under paragraph 1 of this article shall specify:

- (a) The name of the requesting authority;
- (b) A summary of the main facts and the nature of the investigation, prosecution or judicial proceeding to which the request relates;
- (c) The electronic information to be preserved and its relationship to the offence or illegal act in respect of which the request is made;
- (d) Any available data identifying the owner of the information or the location of the ICT device;
- (e) Justification for the need to preserve the information;
- (f) A communication stating that the State Party intends to submit, within the framework of mutual legal assistance, a request for search, seizure or other preservation of the information in question.

3. Upon receiving such a request from another State Party, the requested State Party shall take appropriate measures in accordance with its domestic law to promptly preserve the information referred to in paragraph 1 of this article. The requested State Party may execute in part or in whole the request to preserve information even if the act constituting the ground for the request is not a criminal offence in the requested State Party.

4. The request to preserve information may be refused if the requested State Party considers that execution of the request could prejudice its sovereignty, security or other vital interests.

5. Where the requested State Party believes that the execution of a request as referred to in paragraph 1 of this article would not ensure the preservation of the information concerned or would jeopardize confidentiality or otherwise prejudice the investigation, prosecution or judicial proceeding in question, it shall promptly notify the requesting State Party thereof. On the basis of that notification, the requesting State Party shall decide whether execution of the request is necessary.

6. Any preservation effected in response to a request as referred to in paragraph 1 of this article shall be for a period of not less than 90 days in order to enable the requesting State Party to submit a request for search, seizure or other preservation of the information in question. Following the receipt of such a request, the requested State Party shall preserve the information pending a decision on that request.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

R. Expedited disclosure of preserved traffic data

Proposal 1

1. Where, in the course of the execution of a request made [pursuant to article 34: Brazil, Canada] [(Article “Mutual Legal Assistance Regarding Provisional Measures- Expedited Preservation of Data”): Jamaica on behalf of CARICOM] to preserve traffic data concerning a specific communication, the requested State Party discovers that a service provider in another State was involved in the transmission of the communication, the requested State Party shall expeditiously disclose to the requesting Party a sufficient amount of traffic data to identify that service provider and the path through which the communication was transmitted.

2. Disclosure of traffic data under paragraph 1 may only be withheld if:

- (a) The request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence; or

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

(Brazil, Canada, Ghana, Jamaica on behalf of CARICOM)

Source: Council of Europe Convention on Cybercrime, article 30.

Proposal 2

When the requested State Party discovers – in the context of executing a request to preserve traffic data regarding certain communications – that a service provider from another State was involved in the transmission of the information, it shall disclose to the requesting State Party a sufficient amount of traffic data to make it possible to identify that service provider and the path through which the information whose preservation is sought was transmitted.

(Egypt)

Proposal 3

1. When, in the course of executing a request for the preservation of information made pursuant to article 59 of this Convention, the requested State Party discovers that a service provider operating from the territory of another State was involved in the transmission of the information, it shall expeditiously disclose to the requesting State Party, in accordance with the procedure established by national law, a sufficient amount of traffic data making it possible to identify that service provider and the path through which the information whose preservation is sought was transmitted.

2. The request to preserve information may be refused if the requested State Party considers that execution of the request could prejudice its sovereignty, security or other vital interests.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

S. Mutual assistance regarding accessing of stored [computer data] [information technology information]

Proposal 1

1. A State Party may request another State Party to search or similarly access, seize or similarly secure, and disclose data stored by means of a computer system located within the territory of the requested State Party, including data that has been preserved pursuant to article [34: Brazil, Canada] [42 on the expedited preservation of stored computer data: Ghana] [(Mutual Legal Assistance Regarding Provisional Measures-Expedited Preservation of Data): Jamaica on behalf of CARICOM] [9: United Kingdom].

2. The requested Party shall respond to the request through the application of [relevant: Ghana] international instruments [on international cooperation in criminal matters: Ghana], arrangements [and laws referred to in article 28: Brazil, Canada] [agreed on the basis of uniform or reciprocal legislation and domestic laws: Ghana], [laws referred to in Article (General Principles Relating to International Co-operation): Jamaica on behalf of CARICOM] and in accordance with other relevant provisions of this chapter.

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

(a) There are grounds to believe that relevant data is particularly vulnerable to loss or modification; or

(b) The instruments, arrangements and laws referred to in paragraph 2 otherwise provide for expedited cooperation.

(Brazil, Canada, Ghana, Jamaica on behalf of CARICOM, United Kingdom of Great Britain and Northern Ireland)

Source: Council of Europe Convention on Cybercrime, article 31.

Proposal 2

1. Any State Party may request another State Party to search, access, seize, secure or disclose information technology information stored and located within the territory of the requested State Party, including information that has been preserved.
2. The requested State Party shall be obliged to comply with the requesting State Party in accordance with the provisions of the Convention.
3. The response to the request should be on an urgent basis if the relevant information is subject to loss or modification.

(Egypt)

Proposal 3

1. A State Party may request another State Party to search or similarly access, seize or similarly secure, or disclose data stored by means of a computer system located within the territory of the requested State Party, including data that has been preserved pursuant to article 6 [on expedited preservation], for the purpose of investigations, prosecutions and judicial proceedings concerning criminal offences defined in this Convention.
2. The request shall be responded to on an expedited basis where there are grounds to believe that relevant data are particularly vulnerable to loss or modification.

(European Union and its member States)

T. Expedited production of stored computer data in an emergency

Proposal 1

1. Each State Party shall adopt such legislative and other measures as may be necessary, in an emergency, for its point of contact for the 24/7 Network referenced in (Article 24/7 Network) of the Convention (“point of contact”) 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 computer data in that service provider’s possession or control.
2. Each State Party may reserve the right not to disclose the specified stored computer data to the requesting State Party until the requesting State Party transmits an emergency mutual legal assistance request in accordance with Article (Emergency MLA Request).
3. A State Party may, at the time of signature of this Convention or when depositing its instrument of ratification, acceptance or approval, declare that it will not execute requests under paragraph 1 seeking only the disclosure of subscriber information.
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 from a service provider in its territory following a request under paragraph 1;
 - (b) A service provider in its territory to disclose the requested computer data to its authorities in response to a request under sub-paragraph (a); and
 - (c) Its authorities to provide the requested computer data to the requesting State Party.

5. The request under paragraph 1 shall specify:
 - (a) The competent authority seeking the computer data and date on which the request was issued;
 - (b) A statement that the request is issued pursuant to this Convention;
 - (c) The name and address of the service provider(s) in possession or control of the computer data sought;
 - (d) The offence(s) that is/are the subject of the criminal investigation or proceedings and a reference to its legal provisions and applicable penalties;
 - (e) Sufficient facts to demonstrate that there is an emergency and how the data sought relates to it;
 - (f) A detailed description of the computer data sought;
 - (g) Any special procedural instructions; and
 - (h) Any other information that may assist in obtaining disclosure of the requested computer data.
6. The requested State Party shall accept a request 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 or approval, 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 channel, which may include mutual assistance, as specified by the requested State Party.
8. The requested State Party shall inform the requesting State Party of its determination on the request under paragraph 1 on a rapidly expedited basis and, if applicable, shall specify any conditions under which it would provide the data 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 under paragraph 8, it shall promptly inform the requested State Party. The requested State Party shall then determine whether the 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 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 information or material.

(Jamaica on behalf of CARICOM)

U. Cross-border access to stored [computer data] [information technology information] with consent or where publicly available

Proposal 1

[Subject to reservation, : Brazil] A State Party may, without the authorization of another State Party:

- (a) Access publicly available (open source) stored computer data, regardless of where the data is located geographically; or

(b) Access or receive, through a computer system in its territory, stored computer data located in another Party, if the Party obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the data to the Party through that computer system.

(Brazil, Canada, Ghana, Jamaica, on behalf of CARICOM)

Source: Council of Europe Convention on Cybercrime, article 32.

Proposal 2

Any State Party may, without obtaining the authorization of another State Party, access information technology information that is publicly available (open source), regardless of the geographical location of the information.

(Egypt)

Proposal 3

Access to information technology- information across border

A State Party may, without obtaining an authorization from another State Party:

(a) Access information technology information available to the public (open source), regardless of the geographical location of the information.

Access or receive – through information technology in its territory – information technology information found in the other State Party, provided it has obtained the voluntary and legal agreement of the person having the legal authority to disclose the information to that State Party by means of the said information technology.

(Jamaica on behalf of CARICOM)

V. Mutual assistance regarding the real-time collection of traffic data

Proposal 1

1. The States Parties shall [may: Canada] provide mutual [legal: Canada] assistance to each other in the real-time collection of traffic data associated with specified communications in their territory transmitted by means of a computer system. [Subject to the provisions of paragraph 2,; Canada – delete] this 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 real-time collection of traffic data would be available in a similar domestic case.

(Brazil, Canada, Ghana, Jamaica on behalf of CARICOM)

Source: Council of Europe Convention on Cybercrime, article 33.

Proposal 2

1. States Parties shall provide bilateral assistance to each other regarding the real-time collection of traffic data associated with certain communications in their territories and transmitted by means of information and communications technology.

2. Each State Party shall provide such assistance, at least for offences in which the real-time collection of traffic data is available for similar cases under national legislation.

(Egypt)

Proposal 3

1. A State Party shall, at the request of another State Party, carry out the real-time collection of traffic data in its territory or in the territory under its jurisdiction and subsequently transmit, in accordance with the procedures established by its domestic law and provided there are relevant grounds, the collected information to the requesting State Party.

2. A request made in accordance with paragraph 1 of this article shall specify:

(a) The name of the requesting authority;

(b) A summary of the main facts and the nature of the investigation, prosecution or judicial proceeding to which the request relates;

(c) The electronic information in relation to which the collection of the traffic data is required and its relationship to the offence or other illegal act;

(d) Any available data that identifies the owner or user of the information or the location of the ICT device;

(e) Justification for the need to collect the traffic data; justification for the specified period for collecting the traffic data;

(f) The period of collection of the traffic data.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

**W. Mutual assistance regarding the interception of [content data]
[information in digital and electronic form]**

Proposal 1

The States Parties shall provide mutual [legal: Canada] assistance to each other in the real-time collection or recording of content data of specified communications transmitted by means of a computer system to the extent permitted under their applicable treaties and domestic laws.

(Brazil, Canada, Ghana)

Source: Council of Europe Convention on Cybercrime, article 34.

Proposal 2

States Parties shall be obliged to provide bilateral assistance to each other in connection with the real-time collection of content data for specific communications transmitted by information and communications technology to the extent permitted by applicable treaties and national legislation.

(Egypt)

Proposal 3

A State Party shall, in its territory or in the territory under its jurisdiction, carry out the real-time collection of information in digital and electronic form transmitted by means of ICT, including data on the contents of messages, in accordance with the procedures established by its domestic law. The supplying of such information to another State Party shall be carried out in accordance with the domestic law of the State Party collecting the information, and with existing mutual legal assistance treaties.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

X. Transfer of criminal proceedings

Proposal 1

States Parties shall consider the possibility of transferring to one another proceedings [relating to criminal: Brazil, Russian Federation] [for the criminal: Canada, Jamaica on behalf of CARICOM, United Kingdom] prosecution of an offence [established in accordance with: Brazil, Egypt, Jamaica on behalf of CARICOM, Russian Federation] [covered by: Canada, United Kingdom] this Convention [in cases: Canada] where such transfer is deemed to be in the interests of the proper administration of justice, particularly in cases [involving several jurisdictions,: Brazil, Jamaica on behalf of CARICOM, Russian Federation] [where several jurisdictions are involved; Canada] with a view to [ensuring the consolidation of criminal proceedings: Brazil, Russian Federation] [concentrating the prosecution: Canada].

(Brazil, Canada, Egypt, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

Source: Organized Crime Convention, article 21; Convention against Corruption, article 47.

Y. Joint investigations

Proposal 1

1. 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. To this end, States Parties shall consider concluding bilateral or multilateral agreements or arrangements. The composition of the team shall be specified in the agreement.

2. A request to establish a joint investigative team may be made by any interested State Party. The team shall be established in one of the States Parties where the investigation is to take place.

3. The States Parties shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

(Brazil, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan))

Proposal 2

States Parties [shall consider concluding bilateral or multilateral agreements or arrangements: Canada, Egypt, Ghana, United Republic of Tanzania, United States, United Kingdom] [are encouraged to conclude agreements or arrangements at the bilateral, regional or international level: European Union] whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings [concerning criminal offences defined in this Convention: European Union] [in one or more States,: Canada, Egypt, Ghana, United Republic of Tanzania, United Kingdom, United States] the competent authorities [of two or more States Parties: European Union] [concerned: Canada, Egypt, Ghana, United Republic of Tanzania, United Kingdom, United States] may establish joint [joint investigation teams, with a view to enhancing enforcement capabilities.: European Union] [investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in the territory of which such investigation is to take place is fully respected.: Canada, Egypt, Ghana, United Republic of Tanzania, United Kingdom, United States]

(Canada, Egypt, European Union and its member States, Ghana, United Republic of Tanzania, United Kingdom of Great Britain and Northern Ireland, United States of America)

Source: Organized Crime Convention, article 19; Convention against Corruption, article 47, with modifications.

Z. Special investigative techniques

Proposal 1

1. [With a view to effectively combating offences relating to ICT use,: Brazil] [In order to combat effectively the use of information and communications technology for criminal purposes: Egypt] each State Party shall, to the extent permitted by the fundamental principles of its domestic law and subject to the conditions prescribed by [law: Russian Federation] [its legislation: Brazil [its domestic law: Egypt], 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: Brazil] [within: Egypt] its territory, and to [ensure that the evidence gathered through such methods is acceptable before the courts: Brazil] [allow for the admissibility in court of evidence derived therefrom: Egypt].

2. For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to [enter, as necessary, into: Brazil] [conclude, when necessary: Egypt, Jamaica on behalf of CARICOM, Russian Federation] appropriate bilateral or multilateral agreements or arrangements for the use of 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 [envisaged: Brazil] [set forth: Egypt, Jamaica on behalf of CARICOM, Russian Federation] in paragraph 2 of this article, decisions on the use of such special investigative techniques at the international level shall be made on a case-by-case basis and may, as necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

[4. Decisions to use special investigative techniques at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing traffic data to continue uninterrupted or be removed or replaced in whole or in part.: Jamaica on behalf of CARICOM]

(Brazil, Egypt, Jamaica on behalf of CARICOM, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

Source: Organized Crime Convention, article 20.

AA. Law enforcement cooperation

Proposal 1

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

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences

established under this Convention, 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 [criminal: Jamaica on behalf of CARICOM] offences [established under: Canada, Egypt, United Republic of Tanzania, United States] [established in accordance with: Jamaica on behalf of CARICOM] [covered by: United Kingdom] this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

[(iii) The movement of proceeds of crime or property derived from the commission of such offences;; Canada]

[(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;; Egypt, Jamaica on behalf of CARICOM, United Republic of Tanzania,]

[(iii) The location of property, equipment or other instrumentalities used or intended for use in the commission of such offences;; United States of America]

[(b) *bis* To provide, when appropriate, necessary items or [data: Canada] [quantities of substances: Jamaica on behalf of CARICOM, United Republic of Tanzania] for analytical or investigative purposes;; Canada, Jamaica on behalf of CARICOM, United Kingdom, United Republic of Tanzania]

(c) 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;

[(d) To exchange information with other States Parties on specific means and methods used by cybercrime perpetrators and their accomplices, including, where applicable, the use of false identities, altered or false documents or other means of concealing their activities and the use of illicit encrypted platforms and cybercrime tactics, techniques and procedures, as well as operational indicators of compromise and concern;; Canada]

[(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged or altered documents, or other means of concealing activities;; Egypt]

[(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit criminal offences established in accordance with this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;; Jamaica on behalf of CARICOM]

[(d) To exchange information with other Parties on specific means and methods used by those committing the offences covered by this Convention.: United Kingdom]

[(d) To exchange information with other States Parties on specific means and methods used by organized criminal groups, including, where applicable, routes and conveyances and the use of false identities, altered or false documents or other means of concealing their activities;; United Republic of Tanzania]

[(d) To exchange information with other States Parties on specific means and methods used by persons committing crimes established under this Convention, including, where applicable, means of concealing their activities;; United States]

(e) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences established under this Convention.

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

[3. States Parties shall endeavour to cooperate within their means to respond to crimes established under this Convention through the use of modern technology: Canada: delete. Absent from United Kingdom's proposal].

(Canada, Egypt, Jamaica on behalf of CARICOM, United Republic of Tanzania, United Kingdom of Great Britain and Northern Ireland, United States of America)

Source: Organized Crime Convention, article 27; Convention against Corruption, article 48, with modifications.

Proposal 2

Law enforcement cooperation

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

Public-private partnerships to enhance cybercrime investigations

1. State Parties shall collaborate to conclude bilateral and multilateral agreements or arrangements to assist the law enforcement agencies of one another in direct cooperation with relevant service providers in their respective territories through public-private partnerships in order to streamline cooperation with industry and enhance collaboration between States Parties, Governments and private service providers to establish modalities/protocols of cooperation in law enforcement, cybercrime investigations and evidence collection, in particular for addressing the challenge of the cross-border acquisition of electronic evidence.

2. State Parties shall develop guidelines for service providers to assist law enforcement agencies in cybercrime investigations, including with regard to the format and duration of preservation of digital evidence and information, as well as the cross-border acquisition of electronic evidence.

(Ghana)

Proposal 3

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

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, 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 by this Convention for the purpose of establishing:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of offences or property derived from the commission of such offences;

(iii) The movement of property, instruments, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To transfer items used in the commission of offences, including instruments used to commit offences; 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;

(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including examples of malicious software, the use of false identities, forged, altered or false documents and other means of concealing illegal activities;

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

(f) To exchange information of interest and take coordinated action for the purpose of early detection of the offences covered by this Convention.

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

Each State Party may send requests for assistance or communications related thereto in urgent circumstances by expeditious means of communication, including facsimile or electronic mail, to the extent that such means ensure an appropriate level of security and authentication (including encryption, if necessary), followed by formal confirmation, if required by the requested State Party. The requested State Party shall accept such a request and respond to it by any similar expeditious means of communication. The requested State Party may reserve the right to send a reply after receiving an original request and shall notify the depositary accordingly.

(Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan))

BB. Measures for recovery of property – general provision

Proposal 1

States Parties shall afford each other the widest measure of cooperation and mutual legal assistance in the recovery of property obtained by criminal means, in compliance with the provisions of this Convention and their domestic law, taking into account the relevant initiatives of international regional and interregional organizations on combating money-laundering.

(Brazil, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan))

CC. Prevention and detection of transfers of proceeds of crime

Proposal 1

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 circulation of digital financial assets and digital currency, operating 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, including information on the accounts of all the above-mentioned persons.

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 circulation of digital financial assets and digital currency, apply reasonable scrutiny to accounts that persons referred to in paragraph 1 of this article maintain or try to open.

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, as well as organizations engaged in activities related to the circulation of digital financial assets and digital currency, 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 circulation of digital financial assets and digital currency, 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 circulation of digital financial assets and digital currency, 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 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, 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. 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, 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.

7. Each State Party shall consider establishing, in accordance with its domestic law, effective systems for the disclosure of financial information on persons regarding whom information exists about their possible involvement in offences established in accordance with this Convention, 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 to investigate and take action to recover proceeds of offences established in accordance with this Convention.

(Brazil, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

DD. Measures for direct recovery of property

Proposal 1

Each State Party shall, in accordance with its domestic law, take such legislative or other measures as may be necessary:

(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, to initiate civil action in the courts of that State Party to establish a property right violated as a result of the commission of an offence or other illegal act established in accordance with this Convention;

(b) To permit its courts to order the payment of compensation or damages resulting from the commission of such offences or other illegal acts established in accordance with this Convention; and

(c) To permit its courts or competent authorities, when having to decide on confiscation, to recognize, in whole or in part, claims of another State Party, its citizens or stateless persons permanently residing in its territory, or of legal persons established or having a registered office in its territory, as a legitimate owner of property acquired through the commission of an offence or other illegal act established in accordance with this Convention.

(Brazil, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

EE. Mechanisms for [forfeiture] [recovery] of property through international cooperation in confiscation

Proposal 1

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

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

(b) Take such measures as may be necessary, within its jurisdiction, to permit its competent authorities to confiscate property of foreign origin by court order in connection with the laundering of proceeds derived from an offence established in accordance with this Convention;

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

2. Each State Party, in order to provide mutual legal assistance upon a request made by another State Party, shall, in accordance with its domestic law:

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

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

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign seizure order or criminal charge related to the acquisition of such property.

3. The provision of legal assistance in accordance with paragraph 2 of this article shall be based on an appropriate written request.

4. If there is doubt as to the authenticity or the content of the request, additional confirmation may be requested.

5. The request shall contain the following information:

(a) The name of the requesting competent authority and the requested competent authority;

(b) The factual basis of the case;

(c) The purpose of and justification for the request;

(d) A description of the nature of the requested assistance;

(e) A copy of the seizure order, if available;

(f) Any other information that could be helpful for the proper execution of the request.

6. The request, submitted or confirmed in writing, shall be signed by an authorized official of the requested competent authority and authenticated by means of the seal of that authority.

(Brazil, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

Proposal 2

1. Each State Party, in order to provide mutual legal assistance pursuant to article [on international cooperation for the purposes of confiscation] of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention in articles [on criminalization], shall, in accordance with its domestic law:

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

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

(c) Take such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to [paragraph 2 of the article on international cooperation for the purposes of confiscation] 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 upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for the purposes of paragraph 1 (a) of this article;

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

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

(United States of America)

Source: Convention against Corruption, article 54.

FF. International cooperation for purposes of confiscation

Proposal 1

1. A State Party that has received from another State Party having jurisdiction over an offence established in accordance with this Convention a request for the confiscation of property, referred to in article 73, paragraph 1, of this Convention, derived from the commission of offences covered by this Convention, or of instrumentalities used to commit such offences, situated in its territory, shall, to the extent permitted by its domestic legislation:

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

(b) Submit to its competent authorities an order of confiscation issued by a court in the territory of the requesting State Party, with a view to giving effect to it to the extent requested and to the extent to which it relates to the property situated in the territory of the requested State Party that is derived from the commission of offences established in accordance with this Convention or to the instrumentalities used to commit such offences.

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 or seize property derived from the commission of offences established in accordance with this Convention, or instrumentalities used to

commit such offences, as referred to in paragraph 1 (b) of this article, 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 decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with the provisions of its domestic law and any bilateral or multilateral agreements or arrangements to which it may be bound in relation to the requesting State Party.

4. 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.

5. A request submitted under this article may be refused, or provisional measures lifted, if the requested State Party does not receive in a timely manner the order of the competent authorities of the requesting State Party or the documents required for the competent authorities of the requested State Party to adopt such a decision.

6. 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.

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

(Brazil, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

Proposal 2

1. A State Party that has received a request from another State Party having jurisdiction over an offence covered by this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities [referred to in article 12, paragraph 1, of this Convention: Canada] [referred to in article [on confiscation and seizure, paragraph 1,]: United States] situated in its territory shall, to the greatest extent possible within its domestic legal system:

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

(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 12, paragraph 1, of this Convention: Canada] [in accordance with relevant provisions under this Convention: Ghana] [with article [on confiscation and seizure, paragraph 1,] of this Convention: United States] [insofar as it relates to proceeds of crime, property, equipment or other instrumentalities [referred to in article 12, paragraph 1: Canada] [referred to in article [on confiscation and seizure, paragraph 1,]: United States], situated in the territory of the requested State Party: Canada, Egypt, United States].

2. Following a request made by another State Party having jurisdiction over an offence [covered by: Canada, Egypt, Ghana] [established under: United States] this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities [referred to in article 12, paragraph 1, of this Convention: Canada] [used in or destined for use in offences covered by this Convention: Ghana] [referred to in article [on confiscation and seizure, paragraph 1,] of this Convention: United States of America] 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 18 of this Convention: Canada] [The provisions regarding mutual legal assistance under article 39 of this Convention: Ghana] [The provisions of article [on mutual legal assistance] of this Convention: United States] [are applicable, mutatis mutandis, to this article. In addition to the information

specified in article: Canada, Ghana, United States] [18, paragraph 15.: Canada] [39, paragraph 11: Ghana] [on mutual legal assistance, paragraph 15: United States] 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 to be confiscated 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;: Canada, Egypt, Ghana] [In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location, and where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;: United States]

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

(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: United States].

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

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 [absent from Egypt's proposal].

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 [covered by: Canada, Egypt, Ghana] [established under: United States] this Convention. [Cooperation under this article may also be refused or provisional measures lifted if the requested State Party did not receive sufficient and timely evidence or if the property is of a de minimis value.: United States]

[7.bis 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.: United States]

8. The provisions of this article shall not be construed to prejudice the rights of bona fide third parties.

9. States Parties shall consider concluding bilateral or multilateral treaties, agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this article.

(Canada, Egypt, Ghana, United States of America)

Source: Organized Crime Convention, article 13.

GG. Special cooperation

Proposal 1

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 carried out by its own competent authorities, information on property derived from the commission of an offence established in accordance with 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 an investigation or judicial proceeding or might lead to a request by that State Party under this chapter.

(Brazil, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

HH. Disposal of confiscated proceeds of crime or property

Proposal 1

1. A State Party which has confiscated property pursuant to the provisions of this chapter 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.

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.

3. In accordance with article 71 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 was executed in accordance with article 68 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;

(b) In all other cases, give priority consideration to returning the confiscated property to its prior legitimate owners or paying compensation or damages to the victims of the offence.

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.

(Brazil, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

Proposal 2

1. Proceeds of crime or property confiscated by a State Party pursuant to [articles 12 or 13, paragraph 1, of: Canada] [provisions of: Ghana] this Convention shall be disposed of by that State Party in accordance with its domestic law and administrative procedures.

2. When acting on the request made by another State Party in accordance with article [13: Canada] [51: Ghana] 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 legitimate owners.

3. When acting on the request made by another State Party in accordance with [articles 12 and 13 of: Canada] [the articles regarding confiscation under: Ghana] this Convention, a State Party may 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 [30: Canada] [55: Ghana], paragraph 2 (c), of this Convention and to intergovernmental bodies specializing in the fight against cybercrime;

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

(Canada, Ghana)

Source: Organized Crime Convention, article 14.

II. Measures for the recovery of property – Expenses

Proposal 1

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 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.

(Brazil, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan))

III. Technical assistance

A. General principles of technical assistance

Proposal 1

General principles of technical assistance

1. States Parties [shall, according to their capacity: Brazil, Russian Federation] [should: Egypt] consider affording one another [the widest measure of: Brazil, Egypt] [broad: Russian Federation] technical assistance, especially for the benefit of developing countries [for: Brazil, Egypt] [in: Russian Federation] their respective plans and programmes to combat ICT-related crimes, including [training: Brazil, Russian Federation] [material support: Egypt] in the areas referred to in [article XX of this: Brazil, Russian Federation] [the: Egypt] Convention, as well as training [and assistance and the mutual exchange of relevant experience: Brazil, Russian Federation] [, assistance, transfer of technology and knowledge and the exchange of best relevant experiences: Egypt] and [expertise: Brazil, Egypt] [specialised knowledge: Russian Federation], which will facilitate international cooperation between States Parties [on: Brazil, Egypt] [in the areas of: Russian Federation] extradition and mutual legal assistance.

2. States Parties shall strengthen [, to the extent necessary,: Brazil, Russian Federation] [and possible: Russian Federation] 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.

3. States Parties [shall: Brazil, Russian Federation] [should: Egypt] consider assisting one another, upon request, in conducting evaluations, studies and research relating to the types, causes and effects of ICT-related crimes committed in their respective countries, with a view to developing, with the participation of the competent authorities [and main actors: Egypt], [society and the private sector,: Brazil, Russian Federation] strategies and action plans to combat these types of offence.

(Brazil, Egypt, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

4. States Parties shall entrust the United Nations Office on Drugs and Crime with the task of providing specialized technical assistance to States Parties with a view to promoting the implementation of programmes and projects to combat crimes and other offences in the area of ICT.

(Brazil, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

5. States Parties should consider establishing financial mechanisms with a view to providing assistance through technical assistance programmes and projects to efforts made by developing countries.

6. States Parties should consider exchanging information on legal, policy or technological developments related to cybercrime and the gathering of evidence in electronic form.

(Egypt)

Source: Convention against Corruption, article 60, with modifications.

Proposal 2

1. Parties shall, to the extent they are able, afford one another the widest measure of technical assistance and capacity-building to implement this convention, and in line with the following principles:

(a) Technical assistance and capacity-building should be carried out in an inclusive manner and should include all nations, paying particular attention to developing countries, and all relevant stakeholders, at various levels, across and within nations.

(b) Each beneficiary, to the extent it is able, needs to determine its own priorities, based on country-specific situations and requirements.

(c) Initiatives require a comprehensive and systematic approach that includes multiple levels and dimensions (technical, human, organizational, governmental, and legal aspects), builds on existing capacities and ensures sustainability.

2. Transparency and accountability help establish trust, which is necessary for effective cooperation.

(United Kingdom of Great Britain and Northern Ireland)

B. Training and technical assistance

Proposal 1

Training

1. Each State Party shall, [as: Brazil, Egypt] [to the extent: Russian Federation] necessary, develop, implement or improve specific training programmes for [its personnel: Brazil, Russian Federation] [the staff: Egypt] responsible for preventing and combating ICT-related crimes. Such training programmes could cover [, inter alia, the following areas: Brazil, Russian Federation] [various areas, including the following: Egypt]:

(a) Effective measures to prevent, detect and investigate ICT-related crimes, as well as to punish and combat them, including the use of electronic evidence-gathering and investigative techniques;

(Brazil, Egypt, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan))

(b) Building capacity in the development and planning of a strategic policies to combat ICT-related crimes;

(c) Training of staff of competent authorities in the preparation of requests for extradition, mutual legal assistance and law enforcement support that meet the requirements of this Convention;

(Brazil, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan))

(d) Preventing the transfer of proceeds of offences established [in accordance with this: Brazil, Russian Federation] [as such under the: Egypt] Convention and recovering such proceeds;

(e) Detection and [blocking of transactions related to: Brazil, Egypt] [freezing: Russian Federation] the transfer of proceeds of offences established in accordance with this Convention;

(f) Surveillance of the movement of proceeds of offences established in accordance with this Convention and of the methods used to transfer, conceal or disguise such proceeds;

(g) [Establishment of: Egypt] Appropriate and efficient legal and administrative mechanisms and methods [for facilitating: Brazil, Russian Federation] [to facilitate: Egypt] the seizure and confiscation of proceeds of offences established [in accordance with this: Brazil, Russian Federation] [as such under the: Egypt] Convention;

(h) Methods used in protecting victims and witnesses who cooperate with judicial [and law-enforcement: Brazil, Russian Federation] authorities;

(Brazil, Egypt, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

(i) Development, planning and implementation strategies and policies to counter information and communications technologies offences. Countries should invest in building and strengthening digital forensics capabilities, including providing security training and qualification, as well as information security management systems to support successful cybercrime prosecutions through the examination of electronic devices in order to collect evidence in a reliable manner;

(j) Preparation of requests for mutual legal assistance that meet the conditions set forth in the Convention;

(k) The investigation of crimes committed using information and communications technology, electronic evidence handling, chain of custody and forensic analysis;

(l) Provision of language and professional training in all activities related to countering information and communications technology-related offences and protecting and expediting communication with specialized agencies to detect and control related offences.

(Egypt)

(m) Training of staff in national and international regulations and language training.

2. With the support of the United Nations Office on Drugs and Crime [and other international organizations: Russian Federation], the States Parties may provide

specialized training assistance to States Parties with a view to promoting the implementation of national programmes and projects to combat ICT-related crimes.

(Brazil, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

3. States Parties that have more advanced capabilities and infrastructure in the field of crime committed using information and communications technology shall assume responsibilities commensurate with those capabilities when providing legal assistance to other States, especially developing countries, and in providing support and advice and transferring knowledge to them in the area of countering such crime.

(Egypt)

Source: Convention against Corruption, article 60, with modifications.

Proposal 2

Training of law enforcement and other personnel/Capacity-building and technical assistance:

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its [criminal justice sector, including: Ghana] law enforcement personnel, [including central authorities,; Canada] [including: United Kingdom, United Republic of Tanzania] prosecutors, [judges: Ghana] [investigating magistrates and customs personnel,; Canada, United Republic of Tanzania] [investigating magistrates: United Kingdom] and other personnel charged with the prevention, detection and control of the offences covered by this Convention. [Such programmes may include secondments and exchanges of staff: Canada, Ghana, United Republic of Tanzania]. Such programmes [shall deal, in particular and to the extent permitted by domestic law: Canada, Ghana, United Republic of Tanzania] [must focus on gender-responsive approaches, as some of the offences covered by this Convention may be more likely to affect certain groups (children, young adults – especially women and girls) more than other groups. The programmes must also uphold international human rights and may include secondments and exchanges of staff. Such programmes shall deal, in particular and to the extent permitted by domestic law,; United Kingdom], with the following:

(Canada, Ghana, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania)

(a) Basic technical knowledge on computer systems and network/Internet/digital technology and electronic evidence;

(b) Substantive law on cybercrime, including elements that define the offences under this Convention;

(c) Procedural measures and law enforcement investigation powers;

(Ghana)

(d) Methods used in the prevention, detection [, investigation: Ghana] and control of the offences covered by this Convention;

(Ghana, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania)

(e) [Modus: Canada] [Modi: Ghana] operandi used by persons suspected of involvement in offences covered by this Convention and appropriate countermeasures;

(f) Monitoring [of the movement of contraband: Canada, United Republic of Tanzania] [and identifying ongoing illicit online activities: Ghana];

(Canada, Ghana, United Republic of Tanzania)

(g) Detection and monitoring of cybercrime, including child sexual abuse and exploitation material and the use of illicit encrypted platforms, ransomware, network intrusions and other malware-based threats;

(Canada)

(h) Detection and monitoring of the movements of proceeds [of crime: Ghana, United Republic of Tanzania], [property, equipment or other instrumentalities and methods used for the transfer, concealment or disguise of such proceeds, property, equipment or other instrumentalities, as well as methods used in combating the offences covered under this Convention: Ghana] [deriving from the committing of the offences in this Convention, equipment or other instrumentalities and methods used for the transfer, concealment or disguise of such proceeds, property, equipment or other instrumentalities, as well as methods used in combating money-laundering and other financial crimes: United Kingdom];

(Ghana, United Kingdom of Great Britain and Northern Ireland,
United Republic of Tanzania)

(i) Collection of [electronic: Canada, Ghana] evidence[, particularly electronic evidence: United Kingdom];

(Canada, Ghana, United Kingdom of Great Britain and Northern Ireland,
United Republic of Tanzania)

(j) Chain of custody;

(k) Forensic analysis;

(Ghana)

(l) Modern law enforcement equipment and techniques, [including electronic surveillance: Canada, Ghana, United Republic of Tanzania] [, controlled deliveries and undercover operations: Ghana, United Republic of Tanzania];

(Canada, Ghana, United Kingdom of Great Britain and Northern Ireland, United
Republic of Tanzania)

(m) Methods used in combating transnational [cybercrime: Canada] [organized crime committed through the use of computers, telecommunications networks or other forms of modern technology; and: Ghana, United Republic of Tanzania];

(Canada, Ghana, United Republic of Tanzania)

(n) Methods used in the protection of victims and witnesses; [and: Canada]

(Canada, Ghana, United Kingdom of Great Britain and Northern Ireland,
United Republic of Tanzania)

(o) Methods for incorporating gender mainstreaming into policymaking, legislation and programming.

(Canada)

(p) Building capacity in the development and planning of strategic policies and legislation to prevent and combat the offences set out in this Convention;

(United Kingdom of Great Britain and Northern Ireland)

(q) [Routes and: United Republic of Tanzania] Techniques used by persons suspected of involvement in offences covered by this Convention, [including in transit States,: United Republic of Tanzania] and appropriate countermeasures;

(United Kingdom of Great Britain and Northern Ireland,
United Republic of Tanzania,)

(r) Control techniques in free trade zones and free ports;

(United Republic of Tanzania)

2. States Parties shall assist one another in planning and implementing research and training programmes designed to share expertise in the areas referred to in paragraph 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, [including the special problems and needs of transit States: United Republic of Tanzania].

3. States Parties shall promote [specialized: United Kingdom] training [and technical assistance: Ghana, United Republic of Tanzania] that will facilitate [extradition and: Ghana, United Republic of Tanzania] [more effective: United Kingdom] mutual legal assistance. Such training and technical assistance may include [language training,: Ghana, United Republic of Tanzania] [assistance with drafting and handling mutual legal assistance requests: United Kingdom] secondments and exchanges between personnel in central authorities or agencies with relevant responsibilities.

4. In the case of existing bilateral and multilateral agreements or arrangements, States Parties shall strengthen, to the extent necessary, efforts to maximize operational and training activities within international and regional organizations and within other relevant bilateral and multilateral agreements or arrangements.

(Ghana, United Kingdom of Great Britain and Northern Ireland,
United Republic of Tanzania)

5. State Parties shall strengthen capacity-building and training to include highly specialized training for practitioners that promotes, in particular, the participation of female experts, and should address the needs of legislators and policymakers to better handle issues of data retention for law enforcement purposes.

(Ghana)

Source: Organized Crime Convention, article 29, with modifications.

Proposal 3

Training and technical assistance

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its personnel charged with the prevention, detection, investigation and prosecution of the offences covered by this Convention. Such programmes may include secondments and exchanges of staff with other States Parties. Such programmes shall deal, in particular and 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;

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

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

(e) Training competent authorities in the preparation of requests for mutual legal assistance and other means of cooperation that meet the requirements of this Convention and guidance provided by the United Nations Office on Drugs and Crime, especially for the collection, preservation and sharing of electronic evidence;

(f) Modern law enforcement equipment and techniques and the use thereof;

(g) The effective protection of human rights and freedoms, including to protect and ensure privacy, personal data protection and due process;

(h) Methods used in the protection of victims;

(i) Training in national and international regulations and in languages.

2. States Parties are strongly encouraged, according to their capacity, to consider affording one another the widest measure of technical assistance, especially for the benefit of developing countries, in their respective plans and programmes to prevent and combat cybercrime, including material support and training in particular but not exclusive to the areas referred to in paragraph 1 of this article, methods to address the lower rates of reporting of cybercrime compared with other types of crime, and training and assistance and the mutual exchange of relevant experience and specialized knowledge, which will facilitate international cooperation between States Parties in the fight against cybercrime.

3. States Parties are strongly encouraged to strengthen, to the extent necessary, efforts to maximize operational and training activities with respect to the scope of this Convention in international and regional organizations and in the framework of relevant bilateral and multilateral agreements or arrangements.

4. States Parties are strongly encouraged to consider establishing voluntary mechanisms with a view to contributing financially to the efforts of developing countries to apply this Convention through technical assistance programmes and projects.

5. The United Nations Office on Drugs and Crime, together with other international and regional organizations in the framework of relevant bilateral and multilateral agreements or arrangements, shall provide technical assistance and capacity-building to States Parties with respect to the scope of this Convention, making the best possible use of its expertise and established practice.

6. 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.

7. 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.

(European Union and its member States)

Source: Organized Crime Convention, article 29, and Convention against Corruption, article 60, with modifications.

Proposal 4

Training and Technical Assistance

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its law enforcement personnel, including prosecutors, [investigators, judicial officers, Financial Intelligence Units: Jamaica on behalf of CARICOM] [investigating magistrates: South Africa, United States] [and forensic analysts: United States] [and customs personnel, and: Jamaica on behalf of CARICOM, South Africa] other personnel charged with the prevention, detection [and control: Jamaica on behalf of CARICOM, South Africa] [and investigation: United States] of the [criminal: Jamaica on behalf of CARICOM] offences [in accordance with: Jamaica on behalf of CARICOM] [covered by: South Africa, United States] this Convention. [and, consistent with its domestic legal framework, its personnel supporting the administration of justice relating to these offences, such as judicial authorities and victim advocates and other service providers: United States] [These: Jamaica on behalf of CARICOM] [Such: South Africa, United States] programmes [may include secondments and exchanges of staff and: Jamaica on behalf of CARICOM, United States] shall deal, in particular and to the extent permitted by domestic law, with the following:

(a) Methods used in the prevention, detection and control of the [criminal: Jamaica on behalf of CARICOM] offences covered by this Convention;

(Jamaica on behalf of CARICOM, South Africa, United States of America)

(b) Routes and techniques used by persons suspected of involvement in offences covered by this Convention, including in transit States, and appropriate countermeasures;

(c) Monitoring of the [movement of data: Jamaica on behalf of CARICOM] [modus operandi of criminals and/or criminal gangs involved: South Africa];

(Jamaica on behalf of CARICOM, South Africa)

(d) Detection and monitoring of the movements of proceeds of [crime: Jamaica on behalf of CARICOM, South Africa] [cybercrime: United States], [property, equipment or other instrumentalities and: Jamaica on behalf of CARICOM, South Africa] [including: United States] methods used for the transfer, concealment or disguise of such proceeds, property, equipment or other instrumentalities [, as well as methods used in [countering: Jamaica on behalf of CARICOM] [combating crime perpetrated through: South Africa] the use of information and communication technologies [for criminal purposes: Jamaica on behalf of CARICOM]: Jamaica on behalf of CARICOM, South Africa];

(e) Collection of evidence [, including electronic evidence: United States];

(Jamaica on behalf of CARICOM, South Africa, United States of America)

(f) Control techniques in free trade zones and free ports;

(South Africa)

(g) Modern law enforcement equipment and [special investigative: Jamaica on behalf of CARICOM] techniques, including electronic surveillance, [controlled deliveries: South Africa] [and undercover operations: Jamaica on behalf of CARICOM, South Africa];

(Jamaica on behalf of CARICOM, South Africa, United States of America)

(h) Methods used in [countering criminal offences: Jamaica on behalf of CARICOM] [combating crime perpetrated through the use of information and communications technologies: South Africa] committed through the use of [information and communication technologies: Jamaica on behalf of CARICOM] [computers, telecommunications networks or other forms of modern technology: South Africa];

(Jamaica on behalf of CARICOM, South Africa)

(i) Tracing of communications and virtual assets for the purposes of criminal investigations;

(United States of America)

(j) Methods used in the protection of victims [, experts,: United States] and witnesses [who cooperate with judicial authorities: Jamaica on behalf of CARICOM];

(Jamaica on behalf of CARICOM, South Africa, United States of America)

(k) Training in national and international regulations.

2. Each State Party shall, to the extent necessary and possible initiate, develop or improve specific training programmes for members of the Judiciary including magistrates.

3. Training to the same effect as those taken pursuant to paragraphs 1 and 2 of this Article shall be introduced and applied within the prosecution service in those States Parties where it does not form part of the Judiciary but enjoys independence similar to that of the Judiciary.

(Jamaica on behalf of CARICOM)

4. States Parties shall assist one another in planning and implementing research and training programs designed to share expertise in the areas referred to in [paragraphs 1, 2 and 3: Jamaica on behalf of CARICOM] [paragraph 1: South Africa,

United States] 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 [, including the special problems and needs of transit States: Jamaica on behalf of CARICOM, South Africa].

5. States Parties shall promote training and technical assistance that will facilitate [timely: Jamaica on behalf of CARICOM] extradition and mutual legal assistance. [Such: South Africa, United States] Training and technical assistance may include language training, secondments and exchanges between personnel in central authorities or agencies with relevant responsibilities.

6. In the case of existing bilateral and multilateral agreements or arrangements, States Parties shall strengthen, to the extent necessary, efforts to maximize operational and training activities within international and regional organizations and within other relevant bilateral and multilateral agreements or arrangements.

(Jamaica on behalf of CARICOM, South Africa, United States of America)

Source: Organized Crime Convention, article 29, with modifications.

Proposal 5

Training and technical assistance

1. Each State Party shall, as appropriate, initiate, develop or improve specific training programmes for its law enforcement personnel and other personnel charged with the prevention and detection of the offences covered by this Convention.

2. States Parties shall, as appropriate, assist one another in planning and implementing research and training programmes, and to that end shall also, as appropriate, use regional and international conferences and seminars to promote cooperation and to stimulate discussion on problems of mutual concern. Moreover, as appropriate and upon request, State Parties can assist and support each other in the implementation of this Convention.

(Switzerland)

Source: Organized Crime Convention, article 29, with modifications.

Proposal 6

Technical Assistance

1. State Party shall endeavour to provide, subject to availability of resources, technical assistance programmes to developing and least developed State Parties, upon request from such developing or least developed State Parties, to enhance capabilities of competent authorities charged with the prevention, detection and control of the offences covered by this Convention. Such programmes may include the following:

(a) Capacity-building and capacity development in policies making;

(b) Sharing experience and best practices to prevent, detect, investigate, punish acts of cybercrime/using ICTs for criminal purpose, including collecting, analysing, recovering digital data, and investigative methods in cyber space.

(c) Effective response in cyber incidents;

(d) Effective measures to safeguard national critical information infrastructure;

(e) Data security solutions including personal data;

(f) Training of experts in cyber security and computer network defence;

(g) Enhancing public awareness and best practices for safe use of Internet

2. States Parties shall assist one another in planning and implementing research and training programmes designed to share expertise in the areas referred to in

paragraph 1 of this article and to that end shall also, when appropriate, promote cooperation and to encourage discussion on issues of mutual interest through regional and international conferences and seminars.

3. States Parties shall encourage dialogue and exchanges between relevant authorities, including through personnel secondments, capacity-building and development programs.

4. States Parties shall promote the transfer of technologies, equipment, software, technical solutions aiming at prevention and countering cybercrime/act of using ICTs for criminal purposes.

(Viet Nam)

C. Exchange of information

Proposal 1

Exchange of information

1. Each State Party shall consider analysing, in consultation with [relevant: Brazil] experts, trends with respect to ICT-related crimes in its territory, as well as the circumstances in which such offences are committed.

2. The States Parties shall consider disseminating statistics and [analysis concerning: Brazil] [analytical expertise on: Russian Federation] ICT-related crimes with a view to developing, insofar as possible, common definitions, standards and methodologies, including best practices to prevent and combat such offences, and share [them: Brazil] [such data: Russian Federation] with one another and through international and regional organizations.

3. Each State Party shall consider monitoring its policies and practical measures to combat ICT-related crimes, as well as assessing their effectiveness.

(Brazil, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan)

Source: Organized Crime Convention, article 28, and Convention against Corruption, article 61.

D. Cooperation with computer emergency response teams

Proposal 1

States Parties, to the extent permitted by domestic laws, shall strengthen cooperation mechanisms between national computer emergency response teams and the criminal justice authorities to assist in the identification, detection and investigation of offences covered under this Convention and the development of cyber situational awareness and early warning systems to help identify cybercrime trends and threats with the objective of stopping ongoing illicit activities.

(Ghana)

IV. Preventive measures

A. General provisions on prevention

Proposal 1

Policies on preventing and [countering the use of information and communications technologies for criminal purposes: Egypt] [combat offences and other illegal acts relating to ICT use: Russian Federation]

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or [maintain: Egypt] [pursue an: Russian Federation] effective, [and: Russian Federation] coordinated [policies: Egypt] [policy: Russian Federation] to [prevent and counter the use of information and communications technologies for criminal purposes: Egypt] [combat offences and other illegal acts relating to ICT use: Russian Federation].

2. Each State Party shall endeavour to establish and promote effective practices [aimed at preventing: Egypt] [to prevent offences: Russian Federation] and [countering the use of information and communications technologies for criminal purposes: Egypt] [other illegal acts relating to ICT use: Russian Federation].

(Egypt, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan)

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and counter the use of information and communications technologies for criminal purposes.

(Egypt)

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. [Such collaboration may include participation in international programmes and projects aimed at preventing and combating the use of information and communications technologies for criminal purposes: Egypt].

(Egypt, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan)

Source: Convention against Corruption, article 5, with modifications.

Proposal 2

Prevention

1. States Parties shall endeavour to develop and evaluate [national: United Kingdom] projects and to establish and promote best practices and policies aimed at the prevention of [cybercrime, in full respect of human rights, fundamental freedoms and the rule of law: European Union] [the offences set out in this Convention: United Kingdom].

2. States Parties shall endeavour to be mindful of gender equality in their measures to prevent [cybercrime: European Union] [the offences set out in this Convention: United Kingdom], if appropriate.

(European Union and its member States, United Kingdom of Great Britain and Northern Ireland)

3. States Parties shall endeavour, in accordance with fundamental principles of their domestic law, human rights and fundamental freedoms, to reduce existing or future opportunities for cybercrime, through appropriate legislative, administrative or other measures. These measures should be clearly defined and strictly limited and

distinct from criminal procedural measures that could interfere with the rights and freedoms of individuals or legal persons. Prevention measures could focus on:

- (a) Strengthening of cooperation between law enforcement agencies and relevant entities, especially the private sector, non-governmental organizations, educational establishments and schools and academia, in addition to the public in general;
- (b) Providing practical prevention measures to the public and developing awareness-raising campaigns on the safe use of the Internet, including digital and media literacy, targeting in particular vulnerable groups such as children, youth and elderly people;
- (c) Developing or strengthening support programmes for victims of cybercrime;
- (d) Establishing public-private partnerships, including cooperation with cybercrime stakeholders and technology companies on information-sharing;
- (e) Issuing regular non-binding advisories on incident prevention and sharing them with users, organizations and other stakeholders to enable them to prevent cyber-incidents that could lead to criminal activities;
- (f) Implementing mechanisms for cooperating with the private sector, including on referrals to competent national authorities and addressing harmful online material, ensuring that the burden on such entities is proportionate and that private sector entities fully respect laws protecting human rights of their users.

(European Union and its member States)

4. States Parties shall endeavour to pay special attention to the issue of preventing and [repressing: European Union] [tackling: United Kingdom] gender-based violence[, where appropriate, in particular: European Union] [particularly in relation to: United Kingdom] violence against women and girls, online, such as through digital literacy campaigns and other awareness-raising activities, in close consultation with various stakeholders [,including the technology industry: United Kingdom].

(European Union and its member States, United Kingdom of Great Britain and Northern Ireland)

5. Each State Party shall consider analysing, 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.

6. States Parties shall endeavour to promote public awareness regarding the existence, causes and gravity of and the threat posed by cybercrime. Evidence-based factual information may be disseminated where appropriate through the mass media and shall include measures to promote public participation in preventing and combating such crime.

7. Each State Party shall 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 developing measures to prevent cybercrime.

8. States Parties shall endeavour to bring together national and regional prevention experiences to create a multilateral repository, under the aegis of the United Nations Office for Drugs and Crime, that would allow the dissemination of good practices in diverse contexts. The Office should facilitate the sharing of best practices on effective and successful preventive measures against cybercrime.

9. States Parties shall collaborate with each other and relevant international and regional organizations in promoting and developing the measures referred to in this

article. This includes participation in international projects aimed at the prevention of cybercrime.

(European Union and its member States)

10. Parties shall endeavour to evaluate periodically existing relevant national legal instruments and administrative practices with a view to identifying gaps and vulnerabilities and ensuring their relevance in the face of changing threats from the offences set out in this Convention.

11. Parties shall endeavour to promote the reintegration into society of persons convicted of offences covered by this Convention.

12. Parties shall endeavour to promote public awareness regarding the existence, causes and gravity of the threat posed by the offences set out in this Convention and what the public can do to protect themselves. Information may be disseminated where appropriate through the diverse and plural media and shall include measures to promote public participation in preventing and combating such crime.

13. Recognising that prevention requires the participation of all relevant stakeholders, Parties shall endeavour to encourage enterprises within their jurisdiction to employ risk-based approaches to improve their resilience to the offences set out in this Convention and to detect, respond to and recover from such incidents.

14. Parties shall endeavour to make information, advice, guidance, and support available to help their societies, economies and citizens take practical steps to secure themselves against the offences set out in this Convention.

15. Parties should endeavour to prevent child sexual exploitation and abuse by establishing and strengthening public-private partnerships or dialogues, and developing regulatory frameworks appropriate to parties' domestic context, to facilitate or promote services that are safe by design and do not compromise children's safety, while protecting privacy, freedom of expression and other internationally recognised human rights.

16. Parties shall consider specific and tailored efforts to keep children safe online. This may include ensuring domestic legal frameworks, practical arrangements and international cooperation arrangements to enable detection, identification, reporting, investigation, prosecution and deterrence of child sexual abuse and exploitation online.

(United Kingdom of Great Britain and Northern Ireland)

Source: Organized Crime Convention, article 31, with modifications.

Proposal 3

Prevention measures

1. States Parties shall ensure that prevention measures are not only the responsibility of Governments but also require the participation of all relevant stakeholders, including law enforcement authorities, the private sector, especially Internet service providers, non-governmental organizations, schools, and academia, in addition to the public in general. Such preventive measures shall be proactive, regular, continuous and suitable for vulnerable groups and deal, in particular and to the extent permitted by domestic law, with the following:

(a) Developing and implementing strategies and policies on raising awareness of cybercrime among the general public and private industry in order to address the lower rates of reporting of cybercrime compared with other types of crime;

(b) Development of methods to ensure that the public have easy access to prevention tools such as online platforms, audio clips, plain-language infographics and reporting platforms;

(c) Development of a series of long-term public policies on prevention, which should include the development of awareness-raising campaigns on the safe use of the Internet;

(d) Development of strategies and policies to prevent and eradicate gender-based violence, in particular violence against women and girls, and hate crimes, and suitable for vulnerable groups such as the elderly and persons with disabilities;

(e) Development of a robust mechanism to stimulate and facilitate the sharing of intelligence on potential criminal *modi operandi*;

(f) Development of strategies to prevent cybercrime by identifying and disrupting ongoing illicit activities online. Accordingly, police and public prosecution services should invest in signalling, detecting and reacting to cybercrime threats and work through public-private partnerships, also harnessing the expertise, intelligence and technical capabilities of computer emergency response teams whenever possible.

2. State Parties shall collect a broad range of data to help understand trends to inform and shape cybercrime policies and operational responses to combat cybercrime.

3. States Parties should improve the implementation of national laws and enhance improved domestic coordination and synergies for the collection and sharing of information and evidence for prosecution purposes.

4. States Parties shall consider undertaking surveys to measure the impact of cybercrime on businesses, including measures implemented, employee training, types of cyberincidents that affect them and the costs associated with recovering from and preventing cyberincidents.

5. States shall consider supporting businesses and communities in raising awareness of cybercrime risks, mitigation strategies and enhancing cyberpractices, as these can have significant downstream preventive benefits.

6. States Parties shall take steps to study the *modi operandi* of contemporary cybercriminals by means of intelligence analysis and criminological research in order to deploy existing resources more effectively and identify vulnerabilities.

7. States Parties shall consider specific and tailored efforts to keep children safe online. This should include ensuring domestic legal frameworks, practical arrangements and international cooperation arrangements to enable reporting, detection, investigation, prosecution and deterrence of child sexual abuse and exploitation online.

8. States Parties shall consider implementing mechanisms for cooperating with industry, including on referrals to competent national authorities and takedowns of harmful criminal material, including child sexual exploitation and abuse material.

9. States Parties shall develop strategies and policies aimed at issuing and sharing with users, organizations and other stakeholders regular advisories on incident prevention to enable them to prevent cyberincidents that could potentially lead to criminal activities.

(Ghana)

Source: Relevant provisions of the African Union Convention on Cyber Security and Personal Data Protection, the outcomes and recommendations of the work of the Expert Group to Conduct a Comprehensive Study on Cybercrime, and the Cybersecurity Act of Ghana, 2020 (Act 1038).

Proposal 4

Prevention

1. States Parties shall endeavour to develop and evaluate national projects and to establish, where appropriate, and promote best practices and policies aimed at the prevention of cybercrime.

2. States Parties shall endeavour to [promote public awareness regarding the existence, causes and gravity of and the threat posed by cybercrime and ways to prevent it. Information may be disseminated where appropriate through trainings, the mass media and relevant Internet websites and shall include measures to promote public participation in preventing such crime: Switzerland] [to build and invest in increasing domestic criminal justice capacity, including training and developing expertise among criminal justice practitioners, as part of national cybercrime prevention strategies: United States].

[3. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences established under this Convention.: United States]

[4. States Parties shall endeavour to evaluate periodically existing relevant domestic legislation and administrative practices with a view to identifying gaps in coverage of offences established by this instrument.: United States]

5. States Parties shall, as appropriate, collaborate with each other and relevant international and regional organizations in promoting and developing [measures to prevent cybercrime: Switzerland] [the measures referred to in this article. This includes participation in international projects aimed at the prevention of cybercrime, for example by alleviating the circumstances that render socially marginalized groups, women and children vulnerable to the action of cybercrime: United States].

(Switzerland, United States of America)

Source: Organized Crime Convention, article 31, with modifications, and the agreed paragraphs of the open-ended intergovernmental Expert Group to Conduct a Comprehensive Study on Cybercrime.

Proposal 5

Public Sector

1. States Parties shall take appropriate measures, in accordance with the fundamental principles of its domestic law, to prevent offences covered by this Convention and other acts of cybercrime/using ICTs for criminal purposes in governmental organizations.

2. States Parties shall take appropriate measures, in accordance with the fundamental principles of its domestic law, to prevent computer systems/ICTs systems/ICTs devices and resources under control of governmental organizations from being abused in offences covered by this Convention and other acts of cybercrime/using ICTs for criminal purposes.

Policies and practices to prevent and combat cybercrime/the use of ICTs for criminal purposes

1. States Parties shall endeavour to establish and promote best practices and policies aimed at the prevention of cybercrime/using ICTs for criminal purposes and other unlawful acts relating to ICTs use.

2. States Parties shall endeavour to prevent their own territory or computer systems/ICTs systems/ICTs devices located on their territory from being used for criminal purposes against the other third parties and/or citizens of other Parties.

3. States Parties shall endeavour, in accordance with fundamental principles of their domestic law, to reduce existing or future opportunities for cyber criminals/criminals using ICTs to participate in lawful markets with proceeds of crime, through appropriate legislative, administrative or other measures. Such measures should include the promotion of regulations and procedures designed to supervise virtual assets trading and cryptocurrency exchange platforms.

4. States Parties shall endeavour to take appropriate measures to prevent reoffending, including reoffending targeting victims in other States Parties.

5. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal systems, collaborate with other Member States, governmental organizations, relevant international and regional organizations in promoting and developing the measures referred to in this article.

6. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences covered by this Convention.

Products control

States Parties shall endeavour, in accordance with fundamental principles of their domestic law, to establish policies of quality control of products applied in the protection of computer systems/ICTs devices before such products are released to public.

(Viet Nam)

**B. Bodies responsible for preventing and combating [cybercrime]
[offences and other unlawful acts relating to ICT use]**

Proposal 1

Competent authority for preventing and [countering the use of information and communications technologies for criminal purposes: Egypt] [combating offences and other illegal acts relating to ICT use: Russian Federation]

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent and counter the use of information and communications technologies for criminal purposes by such means as:

(a) Implementing the policies referred to in this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

(b) Increasing knowledge about preventing and countering the use of information and communications technologies for criminal purposes.

(Egypt)

Alternative paragraph 1:

1. Each State Party shall take such legislative and other measures as may be necessary to designate authorities responsible for activity to prevent and combat offences and other illegal acts relating to ICT use, and establish procedures for the interactions between such authorities.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan)

2. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities [who: Egypt] [that: Russian Federation] may assist other States Parties in developing and implementing specific measures to prevent [and counter the use of information and communications technologies for criminal purposes: Egypt] [offences and other illegal acts relating to ICT use: Russian Federation].

(Egypt, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan)

Source: Convention against Corruption, article 6, with modifications.

C. Cooperation with law enforcement authorities

Proposal 1

Cooperation with law enforcement authorities/Measures to enhance cooperation with law enforcement authorities

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.

(Egypt)

Alternative paragraph 1:

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in [[organized criminal groups and/or individually] the commission of crimes through the use of information and communication technologies: South Africa] [the use of information and communication technologies for criminal purposes: Jamaica on behalf of CARICOM] [the offences set out in this Convention: United Kingdom] [in organized criminal groups: United Republic of Tanzania] to:

(a) Supply information useful to competent authorities for investigative and evidentiary purposes on such matters as:

(i) The identity, nature, composition, structure, [or: South Africa] location [or activities: South Africa, United Kingdom, United Republic of Tanzania] of [information and communication technologies: Jamaica on behalf of CARICOM] [[organized criminal groups and/or individuals]: South Africa] [relevant criminal actors including organized criminal groups: United Kingdom] [organized criminal groups: United Republic of Tanzania];

(ii) Links, including international links, with [any person using information and communication technologies for criminal purposes: Jamaica on behalf of CARICOM] [[other organized criminal groups or individuals]: South Africa] [other criminal actors: United Kingdom] [other organized criminal groups: United Republic of Tanzania];

(iii) [Criminal: Jamaica on behalf of CARICOM] offences that [any person using information and communication technologies for criminal purposes: Jamaica on behalf of CARICOM] [[organized criminal groups and/or individuals]: South Africa] [criminal actors: United Kingdom] [other organized criminal groups: United Republic of Tanzania] have committed or may commit;

(b) Provide [substantial: Jamaica on behalf of CARICOM] [factual, concrete: South Africa, United Kingdom, United Republic of Tanzania] help to competent authorities that may contribute to depriving [any person using information and communication technologies for criminal purposes: Jamaica on behalf of CARICOM] [[organized criminal groups and/or individuals]: South Africa] [criminal actors: United Kingdom] [organized criminal groups: United Republic of Tanzania] of their resources or of the proceeds of crime.

(Jamaica on behalf of CARICOM, South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania)

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of [an: Egypt, South Africa, United Kingdom, United Republic of Tanzania] [a criminal: Jamaica on behalf of CARICOM] offence [established in accordance with: Egypt, Jamaica on behalf of

CARICOM] [covered by: South Africa, United Kingdom, United Republic of Tanzania] this Convention.

3. Each State Party shall consider providing for the possibility, in accordance with fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of [an: Egypt, South Africa, United Kingdom, United Republic of Tanzania] [a criminal: Jamaica on behalf of CARICOM] offence [established in accordance with: Egypt, Jamaica on behalf of CARICOM] [covered by: South Africa, United Kingdom, United Republic of Tanzania] this Convention.

(Egypt, Jamaica on behalf of CARICOM, South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania)

4. Protection of [such persons: Egypt, South Africa, United Republic of Tanzania] [a person referred to in paragraphs 2 and 3 of this Article: Jamaica on behalf of CARICOM] shall be [, mutatis mutandis,: Egypt] as provided for in Article X of this Convention.

(Egypt, Jamaica on behalf of CARICOM, South Africa, United Republic of Tanzania)

5. Where a person referred to in paragraph 1 of this Article [is: Jamaica on behalf of CARICOM] located in one State Party [and: Jamaica on behalf of CARICOM] can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set [forth: Egypt, South Africa, United Kingdom, United Republic of Tanzania] [out: Jamaica on behalf of CARICOM] in paragraphs 2 and 3 of this Article.

(Egypt, Jamaica on behalf of CARICOM, South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania¹)

Source: Organized Crime Convention, article 26, with modifications, and Convention against Corruption, article 37, with modifications

D. Private sector

Proposal 1

Cooperation between national authorities and the private sector

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating [, regulatory: Jamaica on behalf of CARICOM] and prosecuting authorities and entities of the private sector [, in particular financial institutions,: Jamaica on behalf of CARICOM, South Africa] [and internet service providers,: Jamaica on behalf of CARICOM] [, in particular financial institutions and the technology sector, : United States] relating to matters involving the commission of [criminal: Jamaica on behalf of CARICOM] offences established in accordance with this Convention. [Such measures may include: United States]

(Egypt, Jamaica on behalf of CARICOM, South Africa, United States of America)

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.

(Egypt, South Africa)

¹ Note by the Secretariat: this proposal was originally submitted under the chapter on technical assistance.

(a) Information-sharing among industry sectors on cybercrime trends and risks, including referrals to competent national authorities; and

(b) Incident alert and countermeasures on cybercrime trends distributed to the private sector.

(United States of America)

Source: Convention against Corruption, article 39, with modifications and the agreed paragraphs of the open-ended intergovernmental Expert Group to Conduct a Comprehensive Study on Cybercrime.

Proposal 2

Private sector

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent offences and other illegal acts relating to ICT use in the private sector, enhance information security standards in the private sector and, where appropriate, provide and apply effective, proportionate and dissuasive civil, administrative or criminal sanctions for failure to comply with such measures.

2. Measures to achieve these ends may include, inter alia:

(a) Promoting cooperation between law enforcement agencies of the State Party and relevant private entities of that State Party;

(b) Promoting the development of standards and procedures to ensure information security;

(c) Promoting training programmes for law enforcement, investigative, judicial and prosecutorial officials relating to ICT use.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan)

Source: Convention against Corruption, article 12, with modifications.

Proposal 3

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 private sector, including internet service providers, in the prevention of and the fight against cybercrime/the use of ICTs for criminal purposes.

2. Each State party shall take appropriate measures, in accordance with the fundamental principles of its domestic law, to prevent offences covered by this Convention and other acts of cybercrime/using ICTs for criminal purposes in the private sector.

(Viet Nam)

E. Principles and codes of conduct for private providers of information and telecommunications services

Proposal 1

Principles and codes of conduct for private providers of information and telecommunications services

1. Each private provider (or grouping of such providers) of information and telecommunications services located in the territory of a State Party shall take appropriate measures, within its power and in accordance with the law of the State where it is located, to support the establishment and implementation of principles and standards for the use of international cyberspace, based on respect for human rights as guaranteed by fundamental instruments of the United Nations.

2. Measures to achieve these ends may include, inter alia:
 - (a) Cooperation among private providers of information and telecommunications services or groupings of such providers;
 - (b) Cooperation in developing principles and standards for creating an enabling environment for the construction of civilized society as an integral part of international cyberspace.
- (Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan)

F. Raising public awareness of cybercrime prevention

Proposal 1

Public awareness

1. Each State Party shall endeavour to develop, facilitate and promote national and international public awareness programmes, public information campaigns and policies aimed at the prevention of cybercrime. Such information may be disseminated, where appropriate, through the mass media and shall include measures to promote public participation in preventing and combating cybercrime.
2. States Parties should apply a gender mainstreaming approach to assist in identifying differential impacts of cybercrime on diverse communities, in particular women, children and the elderly, in the development and implementation of these programmes, information campaigns and policies. This includes developing and providing programmes and campaigns specifically designed for segments of the population most vulnerable to cybercrime and for social workers, educators and other professionals interacting with them.
3. States Parties shall endeavour to assist one another in developing and implementing the programmes, campaigns and policies referred to in paragraph 1, including by sharing educational materials and programmes.

(Canada)

Source: Organized Crime Convention, article 31, paragraphs 1, 5 and 7, with modifications.

Proposal 2

Raising public awareness of cybercrime prevention

1. Each State Party shall take appropriate measures, within its means and in accordance with the fundamental principles of its domestic law, to promote the active participation of civil society organizations in the prevention of offences and other illegal acts relating to ICT use, and to raise public awareness regarding the existence, causes and gravity of and the threats posed by those offences. This participation should be strengthened by such measures as:
 - (a) Ensuring that the public has effective access to information;
 - (b) Undertaking public information activities that contribute to non-tolerance of offences and other illegal acts relating to ICT use, as well as with the aim of disseminating best practices;
 - (c) Conducting public education programmes on ICT security.
2. Each State Party shall take appropriate measures to ensure that the relevant bodies responsible for combating offences and other illegal acts relating to ICT use referred to in this Convention are known to the public, and shall provide access to such bodies for the reporting of any incidents that may be considered to constitute offences and other illegal acts in accordance with this Convention.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan)

Source: Convention against Corruption, article 13, with modifications.

Proposal 3

Raising public awareness of cybercrime prevention

1. States Parties shall endeavour to promote public awareness regarding the existence, new forms, characteristics, gravity of and the threat posed by cybercrime/the use of ICTs for criminal purposes.
2. State Parties shall encourage government agencies to cooperate with private organizations and other individuals in running education, training and public awareness raising programs on preventing and combating cybercrime/using ICTs for criminal purposes.

(Viet Nam)

G. Participation of society

Proposal 1

Participation of society

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 from the public and private sectors, civil society, non-governmental organizations and community-based organizations in preventing and combating the use of information and communications technology for criminal purposes and to raise public awareness regarding the causes and gravity of the threat posed by the use of information and communications technology for criminal purposes. This participation shall be strengthened by such measures as:

(a) Media activities that encourage non-tolerance of the use of information and communications technology for criminal purposes;

(b) The conduct of public awareness programmes on information and communications technology security.

(Egypt)

Alternative paragraph 1:

1. Each State Party shall take appropriate measures, within its means and in accordance with [fundamental principles of: South Africa, United Kingdom] its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations [, the technology sector: United Kingdom] and community-based organizations, in the prevention of and the fight against [crime committed through: South Africa] the use of information and communications technologies [for criminal purposes: Jamaica on behalf of CARICOM] [the offences set out in this Convention: United Kingdom] and to raise public awareness regarding the existence, causes and gravity of and the threat posed by [such: Jamaica on behalf of CARICOM] crimes [committed through the use of information and communications technologies: South Africa] [these offences: United Kingdom]. 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;

(b) Ensuring that the public has effective access to information;

(c) Undertaking public information activities that contribute to non-tolerance of [crime committed through: South Africa] the use of information and

communications technologies [for criminal purposes: Jamaica on behalf of CARICOM] [the offences set out in this Convention: United Kingdom], as well as public education programmes, including school and university curricula;

(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning [crime committed through: South Africa] the use of information and communications technologies [for criminal purposes: Jamaica on behalf of CARICOM] [the offences set out in this Convention: United Kingdom]. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary for:

- (i) Respect of the rights or reputations of others;
- (ii) The protection of national security [, public order: Jamaica on behalf of CARICOM] [or *ordre public*: South Africa, United Kingdom] or of public health [or morals: South Africa, United Kingdom].

(Jamaica on behalf of CARICOM, South Africa, United Kingdom of Great Britain and Northern Ireland)

2. Each State Party shall take appropriate measures to ensure that the relevant [competent body or bodies responsible for preventing and: Egypt] [bodies in: Jamaica on behalf of CARICOM] [countering the use of information and: Egypt, Jamaica on behalf of CARICOM] [communications technology: Egypt] [communication technologies: Jamaica on behalf of CARICOM] [for criminal purposes: Egypt, Jamaica on behalf of CARICOM] [bodies committed to fighting crimes committed through the use of information and communications technologies that may be: South Africa] [referred to in this Convention: Jamaica on behalf of CARICOM, South Africa] are known to the public, and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute [an: Egypt, South Africa] [a criminal: Jamaica on behalf of CARICOM] offence established in accordance with this Convention.

(Egypt, Jamaica on behalf of CARICOM, South Africa)

Source: Convention against Corruption, article 13, with modifications.

Proposal 2

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[, including academia, the media,,: United States] [and: Switzerland] non-governmental organizations [and community-based organizations; financial institutions; and the private sector, including all relevant private entities,,: United States] in the prevention of and the fight against cybercrime and to raise public awareness regarding the existence, causes and gravity of and the threat posed by cybercrime.

(Switzerland, United States of America)

This participation should be strengthened by such measures as:

(a) Enhancing the transparency of and promoting the contribution of the public to preventive measures against cybercrime;

(b) Ensuring that the public has effective access to information concerning cybercrime threats and risks. Information may be disseminated where appropriate through the mass media and shall include measures to promote public participation in preventing and combating such crime;

(c) Undertaking public information activities that contribute to public education programmes on cybercrime threats and risks, including school and university curricula;

(d) Paying special attention to the issues of preventing and eradicating gender-based violence, in particular violence against women and girls through cybercrime;

(e) Cooperating with civil society to protect victims of cybercrime, especially victims who are members of vulnerable populations, and to inform them of their rights, protections and available assistance.

2. Each State Party shall take appropriate measures to ensure that the relevant law enforcement bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

(United States of America)

Source: Convention against Corruption, article 13, Organized Crime Convention, article 31, and the agreed paragraphs of the open-ended intergovernmental Expert Group to Conduct a Comprehensive Study on Cybercrime.

H. Protection and assistance measures for vulnerable victims

Proposal 1

1. In implementing this Convention, each State Party shall take, consistent with its obligations under international law, all appropriate measures, including legislation if necessary, to preserve and protect the rights of natural persons who have been the object of conduct set forth under articles [on criminalization] of this Convention as accorded under applicable international law.

2. Each State Party shall afford appropriate assistance to victims whose lives or safety are endangered by reason of being the object of conduct set forth under articles [on criminalization] of this Convention.

3. In applying the provisions of this article, States Parties shall take into account the special needs of vulnerable populations, in particular women, children and the elderly.

(United States of America)

I. Measures for protecting witnesses²

Proposal 1

Protection of witnesses, experts and victims

1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them.

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

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

² Note by the Secretariat: some Member States submitted their proposals on this subject matter to the second session of the Ad Hoc Committee under the chapter on procedural measures and law enforcement. See A/AC.291/CRP.11, chapter IV, S and T, for further provisions on the protection of witnesses and assistance and protection of victims.

(b) Providing evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of information and communications technology or other adequate means.

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

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

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

(Egypt)

Source: Organized Crime Convention, article 24 and 25, and Convention against Corruption, article 32, with modifications.

Proposal 2

Measures for protecting witnesses

Each State Party shall consider adopting such legislative measures as may be necessary to provide effective protection for the following:

(a) Persons who, in good faith and on reasonable grounds, provide information relating to illegal acts covered by articles 6–28 of this Convention or otherwise cooperate with investigating or judicial authorities;

(b) Witnesses who give testimony concerning illegal acts covered by articles 6–28 of this Convention, as well as victims;

(c) Where appropriate, family members of the persons referred to in subparagraphs (a) and (b) of this article.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan)

J. Measures for protecting reporting persons

Proposal 1

Protection of reporting persons

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

(Egypt)

Source: Convention against Corruption, article 33.

K. Collection, exchange and analysis of information on the nature of [the use of information and communications technologies for criminal purposes] [crimes committed through the use of information and communications technologies] [cybercrime]

Proposal 1

Collection, exchange and analysis of information on the nature of [crimes committed through: South Africa] the use of information and communications technologies [for criminal purposes: Jamaica on behalf of CARICOM]

1. Each State Party [may analyse: Jamaica on behalf of CARICOM] [shall consider analysing: South Africa, United Republic of Tanzania], in consultation with the [experts: Jamaica on behalf of CARICOM] [scientific and academic communities: South Africa, United Republic of Tanzania], trends in [crimes committed through: South Africa] the use of information and communications technologies [for criminal purposes: Jamaica on behalf of CARICOM] in its territory, the circumstances in which [these crimes are committed: Jamaica on behalf of CARICOM] [such crime operates: South Africa, United Republic of Tanzania], as well as the [professional: South Africa, United Republic of Tanzania] groups and technologies involved.
2. States Parties [may develop and share: Jamaica on behalf of CARICOM] [shall consider developing and sharing analytical expertise concerning: South Africa, United Republic of Tanzania] [crimes committed through the use of information and communications technologies: South Africa], with each other and through international and regional organizations [, analytical expertise concerning the use of information and communication technologies for criminal purposes: Jamaica on behalf of CARICOM]. For that purpose, common definitions, standards, [and: South Africa, United Republic of Tanzania] methodologies [and information on best practices: Jamaica on behalf of CARICOM] should be developed and applied as appropriate.
3. Each State Party shall [monitor: Jamaica on behalf of CARICOM] [consider monitoring: South Africa, United Republic of Tanzania] its policies and actual measures to combat [[crimes committed through]: South Africa] the use of information and communications technologies [for criminal purposes: Jamaica on behalf of CARICOM] and making assessments of their effectiveness and efficiency.

(Jamaica on behalf of CARICOM, South Africa, United Republic of Tanzania)

Source: Organized Crime Convention, article 28, with modifications.

Proposal 2

Collection, exchange and analysis of information on the nature of cybercrime

States Parties shall consider developing and sharing analytical expertise concerning cybercrime activities with each other and through international and regional organizations.

(Switzerland)

Proposal 3

Collection, exchange and analysis of information on the nature of the offences set out in this Convention

1. Each Party shall consider analysing, in consultation with the scientific and academic communities, trends in the offences set out in this Convention, as well as the professional groups and technologies involved.
2. Parties should consider collecting data, where appropriate, on experiences of the offences set out in this Convention and the criminal justice system with due regard for individual privacy and human rights and sharing it with all relevant stakeholders

to ensure the widest possible understanding of the prevalent threats and how to respond most effectively to them.

3. Parties shall consider developing and sharing analytical expertise concerning the offences set out in this Convention with each other and through international and regional organisations, as well as with all relevant stakeholders.

4. Each Party shall consider monitoring its policies and actual measures to combat the offences within this convention and as appropriate, making and sharing assessments of their effectiveness and efficiency.

(United Kingdom of Great Britain and Northern Ireland)

Source: Organized Crime Convention, article 28, with modifications.

V. Mechanism of implementation

A. Implementation of the Convention

Proposal 1³

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with [international human rights law and: United Kingdom] the fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.

(Brazil, Egypt, European Union and its member States, Ghana, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan), United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

2. The offences established in accordance with this Convention shall be established in the domestic law of each Party.

(Ghana, United Kingdom of Great Britain and Northern Ireland)

3. Each State Party may adopt [stricter or more severe: Brazil, Egypt, European Union, United States] [more strict or severe: Ghana, Russian Federation, United Kingdom, United Republic of Tanzania] measures than those that are [set forth in: Egypt] [provided for by: Brazil, European Union, Ghana, Russian Federation, United Kingdom, United Republic of Tanzania, United States] this Convention [for the prevention and combating of ICT crimes: Brazil] [in order to prevent and counter the use of information and communications technology for criminal purposes: Egypt] [for preventing and combating cybercrime: European Union, Ghana, United States] [for preventing and combating ICT-related crimes: Russian Federation] [for preventing and combating the offences set out in this Convention: United Kingdom].

(Brazil, Egypt, European Union and its member States, Ghana, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan), United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

Source: Organized Crime Convention, article 34, with modifications.

Proposal 2

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with its domestic law, to ensure the implementation of its obligations under this Convention.

2. The criminal offences established in accordance with [Articles...: Jamaica on behalf of CARICOM] [on criminalization and protection of witnesses: South Africa]

³ Note by the Secretariat: the present proposal was originally submitted under the chapter on final provisions.

of this Convention shall be established in the domestic law of each State Party independently of [any person involved in the use of information and communication technologies for criminal purposes, except to the extent that the persons mentioned in [paragraphs 2 and 3, Article... Measures To Enhance Cooperation With Law Enforcement Authorities,] of this Convention: Jamaica on behalf of CARICOM] [the transnational nature or the involvement of an [individual and/or organized criminal group] as described in article [on scope of application] of this Convention, except to the extent that article [on criminalization] of this Convention would require the involvement of an [individual and/or organized criminal group: South Africa].

3. Each State Party may adopt stricter or more severe measures than those provided for by this Convention for preventing and countering the use of information and communication technologies for criminal purposes.

(Jamaica on behalf of CARICOM and South Africa)

Source: Organized Crime Convention, article 34, with modifications.

B. Implementation of the Convention through economic development and technical assistance

Proposal 1

1. The Parties shall implement mechanisms to foster software design among developing countries to promote local development and computer security in public and private sectors to prevent cybercrime.

2. The Parties shall facilitate the dissemination of technologies necessary to improve the local capabilities of less developed countries in the fight against cybercrime. Building administrative and technical capacities to preserve the technological developments achieved and promote new advances will be part of the cooperation programs with developing countries.

3. The prevention of cybercrime shall be a central element of programs to combat crime in cyberspace. The Parties shall promote the development of educational mechanisms for the public and support the development of affordable technologies capable of addressing the threats posed by cybercrime.

(Colombia)

Proposal 2

Other measures: implementation of the Convention through economic development and technical assistance/Technical assistance to implement the Convention

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 [cybercrime: European Union, Ghana, United States] [the use of information and communication technologies for criminal purposes: Jamaica on behalf of CARICOM] [crime perpetrated through the use of information and communications technologies: South Africa] [the offences set out in this Convention: United Kingdom] on society in general [and, in particular, on sustainable development: European Union, Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania].

(European Union and its member States, Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, United Republic of Tanzania)

2. In providing and receiving technical assistance, States Parties shall take into full consideration the principles of shared responsibility, ownership, sustainability, transparency, accountability and gender equality, through, inter alia:

- (a) Effectively cooperating across States Parties and with various stakeholders, regardless of their level of development, as appropriate;
- (b) Determining priorities based on country-specific situations and needs;
- (c) Ensuring the sustainability and enduring impact of technical assistance measures by building on existing capacities;
- (d) Transparently communicating about technical assistance measures, as appropriate;
- (e) Working towards gender parity and closing the gender digital divide.

(European Union and its member States)

3. States Parties [are strongly encouraged to: European Union] [shall: Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States] make concrete efforts, to the extent possible and in coordination with each other, as well as with international and regional organizations: [, and civil society: United States] [, noting in particular the central role of the United Nations Office on Drugs and Crime in this regard: United Kingdom]:

(a) To enhance their cooperation at various levels with [other States Parties: European Union] [one another: Ghana] [developing countries: Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States], with a view to strengthening [their: European Union] [the: Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States] capacity [of each other: Ghana] [of the latter: Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States] to prevent and [combat: European Union, Ghana, South Africa, United Kingdom, United Republic of Tanzania, United States of America] [counter: Jamaica on behalf of CARICOM] [cybercrime: European Union, Ghana, United States] [the use of information and communication technologies for criminal purposes: Jamaica on behalf of CARICOM] [crime perpetrated through the use of information and communications technologies: South Africa] [the offences set out in this Convention: United Kingdom];

(United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania)

(b) To enhance [financial and material assistance: European Union, Ghana, Jamaica on behalf of CARICOM, South Africa, United Republic of Tanzania, United States] [technical assistance and capacity-building, in accordance with their needs: United Kingdom] to support the efforts of [other States Parties: European Union] [one another: Ghana] [developing countries: : Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States] [, in particular developing countries,: European Union] to [fight: European Union, Ghana, South Africa, United Kingdom, United Republic of Tanzania, United States] [counter: Jamaica on behalf of CARICOM] [cybercrime: European Union, United States] [the use of information and communication technologies for criminal purposes: Jamaica on behalf of CARICOM] [crime perpetrated through the use of information and communications technologies: South Africa] [the offences set out in this Convention: United Kingdom] effectively and to help them implement this Convention successfully;

(European Union and its member States, Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

(c) To provide technical assistance [and share best practices learned at the national level with one another: Ghana] [to other States Parties, in particular developing countries and countries with economies in transition,: European Union] [to any State Party who desires assistance in fully implementing their obligations under this Convention.: Jamaica on behalf of CARICOM] [to developing countries

and countries with economies in transition: South Africa, United Republic of Tanzania] to assist [them: European Union, South Africa, United Republic of Tanzania] [each other: Ghana] in meeting [their needs: European Union, South Africa, United Republic of Tanzania] [requirements: Ghana] [for the implementation of this Convention.: European Union, Ghana, South Africa, United Republic of Tanzania]. To that end, States Parties shall endeavour to make adequate and [, where possible,: European Union] 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 the aforementioned 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;: Ghana, Jamaica on behalf of CARICOM, South Africa, United Republic of Tanzania];

(European Union and its member States, Ghana, Jamaica on behalf of CARICOM, South Africa, United Republic of Tanzania)

(d) To encourage and persuade other States [; civil society, including academia, the media and non-governmental organizations; international organizations;: United States] [and relevant non-governmental organizations: United Kingdom] [and financial institutions: European Union, Ghana, Jamaica on behalf of CARICOM, South Africa, United Republic of Tanzania, United States] [; and the private sector, including all relevant private entities: United States], as appropriate, to join them in [or otherwise contribute to: United States] efforts [, including: United States] in accordance with this article, in particular by providing [more training programmes and modern equipment: European Union, Ghana, Jamaica on behalf of CARICOM, South Africa, United Republic of Tanzania, United States] [support: United Kingdom] [to developing countries: Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States] in order to assist [them: Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States] in achieving the objectives of this Convention.

(European Union and its member States, Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania United States of America)

(e) To exchange best practices and information with regard to activities undertaken, with a view to improving transparency, avoiding duplication of efforts and making best use of any lessons learned.

(United Kingdom of Great Britain and Northern Ireland)

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 countries with economies in transition.

5. 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.

(European Union and its member States)

6. To the extent possible, Member States shall ensure that resources and efforts are distributed and directed to support harmonization of standards, skills, capacity, expertise and technical capabilities with the aim of establishing common minimum standards among Member States to eradicate cybercrime safe havens and strengthen the fight against cybercrime, considering the cross-border nature of cybercrime.

(Ghana)

7. [To the extent possible, : European Union, Ghana, Jamaica on behalf of CARICOM, South Africa, United Republic of Tanzania, United States] these measures [under this Article: Jamaica on behalf of CARICOM] shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international level.

8. States Parties may conclude bilateral or multilateral agreements or arrangements on material and logistical assistance, taking into consideration the financial arrangements necessary for the means of international cooperation provided for by this Convention to be effective and for the prevention, detection [, investigation and prosecution: European Union] [and control: Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States] of [cybercrime: European Union, Ghana, United States] [the use of information and communication technologies for criminal purposes: Jamaica on behalf of CARICOM] [crime committed through the use of information and communications technologies: South Africa] [the offences covered by this Convention: United Kingdom].

(European Union and its member States, Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

9. The United Nations Office on Drugs and Crime, together with other international and regional organizations in the framework of relevant bilateral and multilateral agreements or arrangements, shall be the United Nations body designated to coordinate and provide technical assistance pursuant to this article.

10. 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.

(European Union and its member States)

11. States Parties and other implementing organisations 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.

(United Kingdom of Great Britain and Northern Ireland)

Source: Organized Crime Convention, article 30, with modifications.

C. Conference of the Parties to the Convention

Proposal 1

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 the Conference [of the States Parties: Brazil, Egypt, European Union, Russian Federation].

3. The Conference of the States Parties shall adopt rules of procedure and rules governing [the functioning of the activities set forth in this article: Brazil, Egypt, European Union, Russian Federation] [the activities set forth in this article, : Russian Federation], including rules concerning the admission and participation of observers, and the payment of expenses incurred in carrying out those activities.

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 activities by States Parties under [articles 55–56 and chapters II–VI of this Convention: Brazil] [the articles of this Convention: Egypt] [chapters [...] to [...]] [criminalization, procedural measures and law enforcement, international cooperation and law enforcement, technical assistance and preventive measures] of this Convention: European Union] [articles 76 and 77 and chapters II–VI of this Convention: Russian Federation] [articles [...] and chapters [...] to ...] of this Convention: United Republic of Tanzania], including by encouraging the mobilization of [voluntary: Brazil, Russian Federation, United Republic of Tanzania] contributions;

(b) Facilitating the exchange of information among States Parties on patterns and trends [with respect to ICT crimes: Brazil, Russian Federation] [with respect to the offences set forth in this Convention: Egypt] [in cybercrime: European Union] and on successful practices for preventing and combating [them: Brazil, Egypt, Russian Federation] [it: European Union, United Republic of Tanzania][, except for the information containing data constituting a State secret in accordance with the legislation of the State Party: Brazil] [, with the exception of information constituting a State secret in accordance with the legislation of the State Party: Russian Federation] [, and for the return of proceeds of crime: Brazil, Egypt, Russian Federation, United Republic of Tanzania] [, through, inter alia, the publication of relevant information as mentioned in this article: United Republic of Tanzania];

(c) Cooperating with relevant international and regional organizations and mechanisms and non-governmental organizations;

(d) Making appropriate use of relevant information produced by other international and regional mechanisms for combating and preventing [ICT crimes: Brazil] [ICT-related crimes: Russian Federation] [the use of information and communications technology for criminal purposes: Egypt] [cybercrime: European Union], in order to avoid unnecessary duplication of work;

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

(f) Making recommendations to improve this Convention and its implementation;

(g) [Identifying the technical assistance requirements: Brazil] [Taking note of the technical assistance requirements: Egypt, European Union, Russian Federation, United Republic of Tanzania] of States Parties with regard to the implementation of this Convention and recommending any action it may deem necessary in that respect.

5. For the purpose of paragraph 4 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 and through such supplemental review mechanisms as may be established by the Conference of the States Parties.

6. Each State Party shall provide the Conference of the States Parties with information [on legislative and administrative and other measures, as well as: Brazil, Russian Federation] on its programmes, plans and practices [, as well as on legislative and administrative measures: Egypt, European Union, United Republic of Tanzania] to implement this Convention, 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 information, including, inter alia, information received from States Parties and from [competent: Russian Federation, United Republic of Tanzania] international organizations. Inputs received from relevant non-governmental organizations duly accredited in accordance with procedures to be decided upon by the Conference of the States Parties may also be considered.

7. Pursuant to paragraphs 4 to 6 of this article, the Conference of States Parties shall establish, if it deems necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention.

(Brazil, Egypt, European Union and its member States, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan), United Republic of Tanzania)

Source: Convention against Corruption, article 63, with modifications.

Proposal 2

1. A Conference of the Parties to the Convention is hereby established to improve the capacity of States Parties to [combat cybercrime: Ghana, Switzerland] [counter the use of information and communication technologies for criminal purposes: Jamaica] [combat crime perpetrated through the use of information and communications technologies: South Africa] [combat the offences set out in this Convention: United Kingdom] and to promote and review the implementation of this Convention.

2. The Secretary-General of the United Nations shall convene the Conference of the Parties not later than one year following the entry into force of this Convention. The Conference of the Parties shall adopt rules of procedure and rules governing the activities set forth in paragraphs 3 and 4 of this article (including rules concerning payment of expenses incurred in carrying out those activities) [Recognizing the central role of non-governmental stakeholders in efforts to prevent and combat the offences in this Convention, the rules of procedure shall include a provision for representatives of relevant non-governmental organizations, civil society organizations, academic institutions and the private sector to participate in the Conference of Parties: United Kingdom].

3. The Conference of the Parties shall agree upon mechanisms for achieving the objectives mentioned in paragraph 1 of this article, including:

(a) Facilitating activities by States Parties [under articles 53 to 56 of this Convention: Ghana] [under [Articles: Training and Technical Assistance; Other measures; implementation of the Convention through economic development and technical assistance; and Prevention: Jamaica] [under articles [on training and technical assistance; other measures: implementation of the Convention through economic development and technical assistance; and prevention] of this Convention]: South Africa] [on training, technical assistance and prevention: Switzerland], including by encouraging the mobilization of voluntary contributions;

(b) Facilitating the exchange of information among States Parties [and relevant non-governmental organizations: United Kingdom] on patterns and trends [in cybercrime: Ghana, Switzerland] [in the use of information and communication technologies for criminal purposes: Jamaica] [in crime perpetrated through the use of information and communications technologies: South Africa] [relating to the offences set out in this Convention: United Kingdom] and on successful practices for combating it [them: United Kingdom];

(c) Cooperating with relevant international and regional organizations and non-governmental organizations;

(d) Reviewing periodically the implementation of this Convention;

(e) Making recommendations to improve this Convention and its implementation.

[(f) Making appropriate use of relevant information produced by other international and regional mechanisms for combating and preventing the offences set out in this Convention in order to avoid unnecessary duplication of work.: United Kingdom]

4. For the purpose of paragraphs 3 (d) and (e) of this article, the Conference of the 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 and through such supplemental review mechanisms as may be established by the Conference of the Parties.

5. Each State Party shall provide the Conference of the Parties with information on its programmes, plans and practices, as well as legislative and administrative measures to implement this Convention, as required by the Conference of the Parties.

(Ghana, Jamaica on behalf of CARICOM, South Africa, Switzerland, United Kingdom of Great Britain and Northern Ireland)

Source: Organized Crime Convention, article 32, with modifications.

D. Implementation body

Proposal 1

1. The Conference of States Parties shall create and establish the International Technical Commission on Combating ICT-related Crime to assist States in the review of the implementation of the Convention.

2. The Commission shall be a permanent body consisting of 23 members, and shall be created on the basis of the principles of mixed representation: two thirds of the members shall represent the Conference of States Parties, and one third shall represent the governing bodies of the International Telecommunication Union (ITU).

3. The members of the Commission shall be experts with significant direct experience in diplomacy, international and criminal law, communications technologies or relevant research.

4. The members of the Commission shall serve a term of five years, and may be reappointed.

5. The sessions of the Commission shall be convened at least once a year and shall be held at the headquarters of ITU or of the United Nations Office on Drugs and Crime, or at a time and place indicated or approved by the Conference of States Parties.

6. The Commission shall develop its own rules of procedure, which are to be approved by the Conference of States Parties.

7. The Commission shall assess the technological progress made in the field of ICT.

8. The Commission, through the Conference of States Parties, shall report on the results of its work to the States Parties and interested international organizations.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan)

Proposal 2

Implementation body

1. The States Parties, recognizing the competence of the United Nations with respect to assisting Member States in implementing their international obligations under international treaties with the purpose of preventing and combating various forms of crime, agree to entrust to the Commission on Crime Prevention and Criminal Justice of the Economic and Social Council the functions assigned to it under this Convention.

2. For the purposes of this chapter:
 - (a) “Commission” means the Commission on Crime Prevention and Criminal Justice of the Council;
 - (b) “Council” means the Economic and Social Council of the United Nations;
 - (c) “General Assembly” means the General Assembly of the United Nations.

Expense of the Commission

The expenses of the Commission shall be borne by the United Nations in such manner as shall be decided by the General Assembly.

Review of decisions and recommendations of the Commission

1. Each decision or recommendation adopted by the Commission pursuant to the provisions of this Convention shall be subject to approval or modification by the Council or the General Assembly in the same way as other decisions or recommendations of the Commission.
2. The Commission is charged with the periodic review of the implementation of this Convention, to include:
 - (a) Midterm review of implementation every five years;
 - (b) High-level ministerial review of implementation to occur every 10 years;
 - (c) Annual discussion on treaty implementation as a standing agenda item during the Commission on Crime Prevention and Criminal Justice.

Functions of the Commission

1. The Commission is authorized to consider all matters pertaining to the aims of this Convention, to improve the capacity of Member States to combat cybercrime and to promote and review the implementation of this Convention, and in particular:
 - (a) To make recommendations for the implementation of the aims and provisions of this Convention, including programmes of scientific research and the exchange of information of a scientific or technical nature; and
 - (b) To agree on means of implementation for achieving the objectives mentioned in paragraph 1 of this article, including:
 - (i) Facilitating activities by States Parties under articles [on criminalization] of this Convention, including by encouraging the mobilization of voluntary contributions;
 - (ii) Facilitating the exchange of information among States Parties on patterns and trends in cybercrime and on successful practices for combating it;
 - (iii) Cooperating with relevant international and regional organizations and non-governmental organizations;
 - (iv) Reviewing periodically the implementation of this Convention; and
 - (v) Making recommendations to improve this Convention and its implementation.
2. For the purpose of paragraph 1 (b) (iv) and (v) of this article, the Commission 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 and through such supplemental review mechanisms as may be established by the Commission.
3. Each State Party shall provide, and each Member State not a State Party to this Convention is encouraged to provide, the Commission with information on its

programmes, plans and practices, as well as legislative and administrative measures to implement this Convention, as required by the Commission.

Information to be furnished by the parties to the Commission

1. The States Parties shall furnish to the Commission such information as it may request as being necessary and appropriate for the performance of its functions, and in particular:

(a) A report every five years on the working of the Convention within each of their territories;

(b) The text of all laws and regulations from time to time promulgated in order to give effect to this Convention;

(c) Information concerning cases or offences arising under this Convention, including particulars of appropriate cases which may be of importance because of the type of activity engaged in to commit the offence or the methods employed by the offenders, without prejudice to the need for States Parties to protect sensitive law enforcement information and the rights of victims and witnesses; and

(d) The names and addresses of the governmental authorities empowered to make or receive requests for international cooperation pursuant to this Convention.

2. States Parties shall furnish the information referred to in the preceding paragraph in such manner and by such dates and use such forms as the Commission may request.

(United States of America)

Source: Single Convention on Narcotic Drugs, articles 5 to 8 and 18, and Organized Crime Convention, article 32, with modifications.

E. Secretariat

Proposal 1

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

2. The Secretariat shall:

(a) Make arrangements and provide the necessary services for the sessions of the Conference of the States Parties and the Commission;

(Brazil, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan)

Alternative paragraph 2(a)

(a) Assist the Conference of the States Parties in carrying out the activities set forth in [this Convention: Egypt] [in article 14: European Union][article 57: Ghana] [[in article on the Conference of the Parties]: South Africa] [in article 21 of this Convention: United Kingdom] [article [on the article on the commission]: United States] and make arrangements and provide the necessary services for [the sessions of the Conference of the States Parties: Egypt, European Union, Ghana, South Africa] [the sessions of the Conference of the Parties: United Kingdom, United Republic of Tanzania] [the Commission as they pertain to this Convention: United States];

(Egypt, European Union and its member States, Ghana, South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

(b) Upon request, assist States Parties in providing information to the Conference of the States Parties and the Commission; and

(Brazil, Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan)

Alternative paragraph 2(b)

(b) Upon request, assist States Parties in providing information to the Conference of the [States: Egypt, European Union , Ghana, South Africa, United States] Parties as envisaged in [this Convention: Egypt] [article 14, paragraphs 5 and 6, of this Convention: European Union] [article 57, paragraph 5, of this Convention: Ghana] [article [on the Conference of the Parties] of this Convention: South Africa] [article 21, paragraph 5, : United Kingdom] [article [...], paragraph [...]: United Republic of Tanzania] [articles [on the functions of the commission, paragraph 3, and information to be furnished by Parties to the Commission] of this Convention: United States]; and

(Egypt, European Union and its member States, Ghana, South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

(c) Ensure the necessary coordination with the secretariats of other relevant international and regional organizations [and mechanisms: Brazil, Egypt, European Union, Ghana, Russian Federation, South Africa, United States].

(Brazil, Egypt, European Union and its Member States, Ghana, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan), South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

Source: Organized Crime Convention, article 33, and Convention against Corruption, article 64, with modifications.

Proposal 2

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

(Switzerland)]

Source: Organized Crime Convention, article 33(1).

F. Technical implementation/operationalization of the law enforcement procedural and investigative measures

Proposal 1

1. The International Criminal Police Organization (INTERPOL) is hereby appointed to assist the Conference of the Parties to the Convention to promote and review the technical implementation/operationalization of the articles pertaining to mutual assistance regarding law enforcement procedural measures and investigative powers, including coordinating and promoting the 24/7 network, preservation and disclosure requests, real-time collection of traffic data, interception requests, law enforcement cooperation, law enforcement cooperation with service providers, cooperation with national computer emergency response teams and coordinating the global response to cyberthreats, among others.

2. INTERPOL shall also assist the secretariat to the extent possible in facilitating activities pertaining to technical capacity-building and prevention measures.

(Ghana)

VI. Final provisions

A. Effects of the Convention

Proposal 1⁴

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 the future do so, they shall also be entitled to apply that agreement or treaty or to regulate those relations accordingly.
2. With respect to States Parties that are members of a regional economic integration organization, those States Parties may, in their mutual relations, apply the rules of that regional economic integration organization, and shall therefore not apply the provisions arising from this Convention.
3. Nothing in this Convention shall affect other rights, restrictions, obligations and responsibilities of a State Party under international law, in particular human rights law.

(European Union and its member States)

Source: Council of Europe Convention on Cybercrime, article 39, with modifications.

B. Settlement of disputes

Proposal 1

In the event of a dispute between States Parties concerning the interpretation or application of this Convention, they shall seek a solution by negotiation, conciliation or arbitration, or by other peaceful means agreed upon by the parties to the dispute.

(Brazil)

Proposal 2

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation [or any other peaceful means: Jamaica on behalf of CARICOM].
2. Any dispute between [two or more: Ghana, Egypt, European Union, Russian Federation, South Africa, Switzerland, United Kingdom, United Republic of Tanzania, United States] States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation [or any other peaceful means: Jamaica on behalf of CARICOM] within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration [or to the International Court of Justice by request in accordance with the Statute of the Court: Switzerland]. [If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.: Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, Russian Federation, South Africa, United Kingdom, United Republic of Tanzania, United States]
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.

⁴ Note by the Secretariat: some Member States submitted their proposals on this subject matter to the second session of the Ad Hoc Committee under the chapter on general provisions. See proposal in A/AC.291/CRP.11, under the chapter containing general provisions.

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

(Egypt, European Union and its member States, Ghana, Jamaica on behalf of CARICOM, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan), South Africa, Switzerland, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

Source: Organized Crime Convention, article 35, with modifications; Convention against Corruption, article 66, with modifications.

C. Reservations

Proposal 1

1. Each State Party may declare that it will exercise the right to make a reservation regarding the application of this Convention, when signing or depositing its instrument of ratification or accession, by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. States Parties are not allowed to make reservations to:

(a) Chapter I (General provisions);

(b) In chapter III (Procedural measures and law enforcement): articles 18 (Scope of procedural provisions), 19 (Conditions and safeguards), 20 (Expedited preservation of stored computer data), 21 (Expedited preservation of accumulated electronic information), 22 (Expedited preservation and partial disclosure of traffic data), 23 (Production order), 24 (Search and seizure of information stored or processed electronically), 25 (Real-time collection of traffic data) and 27 (Jurisdiction);

(c) In chapter IV (International cooperation): section 1 (General principles), articles 34 (Expedited preservation of stored computer data), 35 (Expedited disclosure of preserved traffic data), 36 (Mutual assistance regarding accessing of stored computer data), 38 (Mutual assistance regarding the real-time collection of traffic data), 40 (Mutual emergency assistance), 41 (Protection of personal data), 47 (Measures for direct recovery of property), 53 (24/7 network) and 54 (General principles of technical assistance);

(d) Chapter V (Convention implementation mechanisms); and

(e) Chapter VI (Final provisions).

(Brazil)

Proposal 2

Each State Party may declare that it will exercise the right to make a reservation regarding the application of this Convention, when signing or depositing its instrument of ratification, acceptance, approval or accession, by means of a notification in writing addressed to the Secretary-General of the United Nations. Reservations to articles 15–17, 19, 20, 22–26 and article 47, paragraph 11, will not be accepted.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan)

D. Signature, ratification, acceptance, approval and accession

Proposal 1

1. This Convention [shall be: European Union, Ghana, Jamaica on behalf of CARICOM, Russian Federation, South Africa, United Kingdom, United Republic of Tanzania, United States] [is: Egypt] open [to all States Parties: European Union, Ghana, Jamaica on behalf of CARICOM] [to all States: South Africa, United Kingdom, United Republic of Tanzania, United States] for signature [by all States: Egypt] [by all United Nations Member States: Russian Federation] [from [date] to [date] in [city], [country]: European Union, Ghana, South Africa, United Kingdom, United Republic of Tanzania] [at the agreed date and time: United States], and thereafter at [the: Ghana] United Nations Headquarters in New York until [[date]: European Union, South Africa, United Kingdom, United Republic of Tanzania] [a further agreed date: United States] [[from ... to ...] at []: Jamaica on behalf of CARICOM] [date 2024: Ghana].

(Egypt, European Union and its member States, Ghana, Jamaica on behalf of CARICOM, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan), South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

Source: Organized Crime Convention, article 36, with modifications; Convention against Corruption, article 67, with modifications.

Alternative paragraph 1:

1. This Convention shall be open for signature by all United Nations Member States.

(Brazil)

2. This Convention shall also be open for signature by regional [economic integration: Brazil, Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States] organizations [provided that at least one member State of such [the: Jamaica on behalf of CARICOM] organization [one of their members: Brazil, Russian Federation] has signed this Convention in accordance with paragraph 1 of this article: Brazil, Egypt, Ghana, Jamaica on behalf of CARICOM, Russian Federation, South Africa, United Kingdom, United Republic of Tanzania, United States].

3. This Convention is [shall be: Brazil] subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional [economic integration: Brazil, Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States] organization [that has signed this Convention, : Jamaica on behalf of CARICOM] may deposit its instrument of ratification, acceptance or approval [approval or formal approval: Brazil] [if at least one of its member States has done likewise: Brazil, Egypt, Ghana, Jamaica on behalf of CARICOM, Russian Federation, South Africa, United Kingdom, United Republic of Tanzania, United States]. In that instrument of ratification, acceptance or approval [approval or formal approval: Brazil], such [the: Jamaica on behalf of CARICOM] organization shall declare the extent of its competence with respect to the matters governed by this Convention. Such [The: Jamaica on behalf of CARICOM] organization shall also inform the depositary of any relevant modification in the extent of its competence.

(Brazil, Egypt, European Union and its member States, Ghana, Jamaica on behalf of CARICOM, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan), South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

4. This Convention is open for accession by any State or any regional economic integration organization [of which at least one member State is a Party to this Convention: Egypt, Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States]. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

(Egypt, European Union and its member States, Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America)

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.

(European Union and its member States)

Source: Organized Crime Convention, article 36, with modifications; Convention against Corruption, article 67, with modifications.

Proposal 2

1. This Convention shall be open to all States for signature from [DATE in CITY, COUNTRY] and thereafter at United Nations Headquarters in New York until [DATE].

2. 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.

(Switzerland)

E. Relation with protocols

Proposal 1

1. This Convention may be supplemented by one or more protocols.

(Brazil, European Union and its member States, Ghana, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania)

2. Such protocols shall be negotiated and adopted following the same procedural and organizational rules followed for the negotiation and adoption of this Convention.

(European Union and its member States)

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.

(Brazil, Ghana, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania)

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.

5. Any protocol to this Convention shall be interpreted together with this Convention, taking into account the purpose of that protocol.

(Brazil, European Union and its member States, Ghana, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania)

Source: Organized Crime Convention, article 37, with modifications.

F. Entry into force

Proposal 1

1. This Convention shall enter into force on the [ninetieth: Brazil, Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, Russian Federation, Switzerland, United Kingdom, United Republic of Tanzania, United States] [...: South Africa] day after the date of deposit of the [thirtieth: Brazil, Egypt, European Union, Russian Federation, United Republic of Tanzania] [fortieth: Ghana, Jamaica on behalf of CARICOM, Switzerland, United States] [...: South Africa] [fiftieth: United Kingdom] instrument of ratification, acceptance, approval [or accession: Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, Russian Federation, South Africa, Switzerland, United Kingdom, United Republic of Tanzania, United States] [or formal approval: Brazil]. [For the purpose [purposes: Brazil, Russian Federation] of this paragraph, any [such: Brazil, Russian Federation] instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by [member States: Brazil, Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, Russian Federation, South Africa, United Republic of Tanzania, United States] [Parties: United Kingdom] of such [the: Jamaica on behalf of CARICOM] organization.: Brazil, Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, Russian Federation, South Africa, United Kingdom, United Republic of Tanzania, United States]

2. For each State [Party: Brazil] [or regional economic integration organization: Brazil, Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States] [or regional organization: Russian Federation] ratifying, accepting, [approving or acceding to: Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, Russian Federation, South Africa, Switzerland, United Kingdom, United Republic of Tanzania, United States] [or approving: Brazil] this Convention after the deposit of the [thirtieth: Brazil, Egypt, European Union] [fortieth: Ghana, Jamaica on behalf of CARICOM, Russian Federation, South Africa, Switzerland, United Republic of Tanzania, United States] [fiftieth: United Kingdom] instrument of such action, this Convention shall enter into force on the [thirtieth: Brazil, Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, Russian Federation, Switzerland, United Kingdom, United Republic of Tanzania, United States] [...: South Africa] day after the date of deposit by such State or [regional: Russian Federation] organization of the relevant instrument [or on the date this Convention enters into force pursuant to paragraph 1 of this article, whichever is later: Brazil, Egypt, European Union, Russian Federation].

(Brazil, Egypt, European Union and its member States, Ghana, Jamaica on behalf of CARICOM, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan), South Africa, Switzerland, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

Source: Organized Crime Convention, article 38, with modifications; Convention against Corruption, article 68, with modifications.

G. Amendments

Proposal 1

1. [After the expiry of five years from: Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States] [After the expiry of three years from: Russian Federation] [Three years after: Brazil] the entry into force of this Convention, a State Party may propose an amendment and [transmit it to: Egypt, European Union] [file it with: Brazil, Ghana, Jamaica on behalf of CARICOM, Russian Federation, South Africa, United Kingdom, United Republic of Tanzania, United States] the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to

the States Parties and to the Conference of the [States: Brazil, Egypt, European Union, Russian Federation, United States] Parties to the Convention for the purpose [purposes: Brazil, Russian Federation] of considering and deciding on the proposal. The Conference of the [States: Brazil, Egypt, European Union, Russian Federation, United States] Parties shall make every effort to achieve consensus on each amendment. If all efforts at [to achieve: Brazil, Russian Federation] 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: Brazil, European Union, Russian Federation] [Parties: Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, South Africa, United Kingdom, United Republic of Tanzania, United States].

(Brazil, Egypt, European Union and its member States, Ghana, Jamaica on behalf of CARICOM, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan), South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania United States of America)

2. Regional economic integration organizations [Regional organizations: Russian Federation], 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: Egypt, Ghana, Jamaica on behalf of CARICOM, South Africa, United Republic of Tanzania, United States] [States Parties: Brazil] [member States: Russian Federation] [Parties that are Parties to this Convention: United Kingdom]. Such [These: Jamaica on behalf of CARICOM] organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

(Brazil, Egypt, Ghana, Jamaica on behalf of CARICOM, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan), South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

3. An amendment adopted in accordance with paragraph 1 of this article is [shall be: Brazil] subject to ratification, acceptance or approval [by States Parties: Brazil, Egypt, Ghana, Jamaica on behalf of CARICOM, Russian Federation, South Africa, United Kingdom, United Republic of Tanzania, United States] [referred to in article 18 [on signature, ratification, approval and accession: European Union][and relevant regional economic integration organizations: Brazil].

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party [or a regional economic integration organization: Brazil] [ninety: Brazil, Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, Russian Federation, United Kingdom, United Republic of Tanzania, United States] [...: South Africa] days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment [an amendment by a two-thirds majority vote: Brazil].

5. When [an: Brazil, European Union, Ghana, Russian Federation, South Africa, United Kingdom, United Republic of Tanzania, United States] [the: Egypt] amendment enters into force, it shall be binding on those States Parties [or regional economic integration organizations: Brazil] which have expressed their consent to be bound by it. Other States Parties shall still [continue to: Brazil, Russian Federation] be bound by the provisions of this Convention and any [earlier: Brazil, Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, Russian Federation, South Africa, United Kingdom, United Republic of Tanzania] [other: United States] amendments that they have ratified, accepted or approved.

(Brazil, Egypt, European Union and its member States, Ghana, Jamaica on behalf of CARICOM, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan), South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania United States of America)

Source: Organized Crime Convention, article 39, with modifications; Convention against Corruption, article 69, with modifications.

H. Revision of the Annex

Proposal 1

1. Any State Party may propose amendments to the list of international legal instruments contained in the annex to this Convention.
2. The secretariat shall be responsible for monitoring newly adopted international legal instruments that may affect the scope of application of this Convention, and shall submit proposed amendments to the annex to the next session of the Conference of States Parties.
3. Proposed amendments should pertain only to universal and regional international legal instruments which have entered into force and are directly related to international crime.
4. The Secretary-General of the United Nations shall transmit draft amendments proposed in accordance with paragraph 1 of this article to the States Parties. If one third of the total number of the States Parties which have ratified this Convention notify the Secretary-General of the United Nations of their objections to the entry into force of the amendment within six months from the date of transmittal of the draft amendment, such amendment shall not enter into force.
5. If within six months from the transmittal of the draft amendment fewer than one third of the total number of the States Parties that have ratified this Convention file with the Secretary-General of the United Nations their objections to the entry into force of the amendment, such an amendment shall enter into force for the States Parties not objecting to it 30 days after the end of the six-month period for filing objections.
6. The Conference of States Parties shall adopt an amendment by a two-thirds majority vote of all States Parties that have ratified this Convention. Such an amendment shall enter into force for the States Parties that have expressed their consent to apply the amendment 30 days after the date of the adoption of the amendment.
7. After an amendment has entered into force in accordance with the provisions of this article, and a State Party has sent the Secretary-General a notification of its objection to the amendment, such amendment shall enter into force for that State Party thirty days after the day it notifies the Secretary-General of the adoption of the amendment.

(Russian Federation, also on behalf of Belarus, Burundi, China, Mali,
Nicaragua and Tajikistan)

I. Denunciation

Proposal 1

1. A [Any: Jamaica on behalf of CARICOM] State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Such [and this: Jamaica on behalf of CARICOM] denunciation shall become effective [one year: Egypt, European Union, Ghana, Jamaica on behalf of CARICOM, South Africa, Switzerland, United Kingdom, United Republic of Tanzania, United States] [six months: Brazil, Russian Federation] after the date of receipt of the notification by the Secretary-General.

(Brazil, Egypt, European Union and its member States, Ghana, Jamaica on behalf of
CARICOM, Russian Federation (also on behalf of Belarus, Burundi, China, Mali,
Nicaragua and Tajikistan), South Africa, Switzerland, United Kingdom of Great
Britain and Northern Ireland, United Republic of Tanzania, United States of
America)

2. A regional economic integration organization [regional organization: Russian Federation] shall cease to be a Party to this Convention when all of its member States [all States participating in such organization: Brazil, Russian Federation] [Parties: United Kingdom] have denounced it [this Convention: Brazil, Russian Federation].

(Brazil, European Union and its member States, Ghana, Jamaica on behalf of CARICOM, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan), South Africa, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

3. Denunciation of this Convention in accordance with paragraph 1 of this article shall entail the denunciation of any protocols thereto.

(Egypt, Ghana, Jamaica on behalf of CARICOM, South Africa, Switzerland, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

Source: Organized Crime Convention, article 40, with modifications; Convention against Corruption, article 70, with modifications.

J. Depositary and languages

Proposal 1

1. The Secretary-General of the United Nations is [hereby: Brazil] designated [as the: Brazil, Russian Federation] depositary of this Convention.

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

(Brazil, Egypt, European Union and its member States, Ghana, Jamaica on behalf of CARICOM, Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua and Tajikistan), South Africa, Switzerland, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America)

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

(Egypt, Ghana, Jamaica on behalf of CARICOM, South Africa, Switzerland)

Source: Organized Crime Convention, article 41, with modifications; Convention against Corruption, article 71, with modifications.

VII. Preamble

Proposal 1

The Member States of the United Nations recognising the value of fostering cooperation, the need to pursue, as a matter of priority, a common criminal policy aimed at the protection of society against cybercrime, inter alia, by adopting appropriate legislation, all in accordance with the Protection of Human Rights and Fundamental Freedoms.

Recalling the Security Council resolutions 2322 (2016), 2331 (2016) 2341 (2017), 2396 (2017), the General Assembly resolutions 69-193 (2014), 1-S30(2016), the United Nations Convention against Transnational Organized Crime (UNTOC) 8/1(2016), 9/3(2018), 10/4 (2020), The Commission on Crime Prevention and Criminal Justice 26/4 (2017) and the Economic and Social Council 19 (2019), 21 (2019) that encourage to collect and preserve digital evidence.

(Colombia)

Proposal 2

The States Parties to this Convention,

Guided by the Charter of the United Nations, which applies in cyberspace,

Considering General Assembly resolution 74/247 of 27 December 2019, entitled “Countering the use of information and communications technologies for criminal purposes”, in which the Assembly decided to establish 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,

Noting that information and communications technologies, while having enormous potential for the development of States in accordance with the 2030 Agenda for Sustainable Development, create new opportunities for perpetrators and may contribute to a rise in the levels and complexity of crime,

Expressing grave concern at the negative effects of cybercrime on development, peace and security and human rights, and at the increasing vulnerability of States to such crime, and convinced of the urgent need to strengthen cooperation to prevent and combat such crime more effectively at the national, regional and international levels,

Concerned by the increase 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,

Noting with deep concern the growing links between cybercrime and transnational organized crime,

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,

Committed to the obligation to ensure the respect for human rights and fundamental freedoms as enshrined in the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984, the Convention on the Rights of the Child of 1989, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and other applicable international and regional human rights instruments that reaffirm 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 the respect for privacy and the protection of personal data,

Stressing the need to enhance coordination and cooperation among States in preventing and combating cybercrime, including by providing technical assistance and capacity-building to countries, in particular developing countries, upon their request, to improve national legislation and frameworks and enhance the capacity of national authorities to deal with cybercrime in all its forms, including its prevention, detection, investigation and prosecution, and emphasizing in this context the role that the United Nations, in particular the Commission on Crime Prevention and Criminal Justice, plays,

Recognizing the need for effective and well-functioning cooperation between States Parties in preventing and combating cybercrime and the need to protect legitimate interests in the use and development of information technologies,

Recognizing also the importance of the role of civil society, academia and the private sector in preventing and combating cybercrime, including ensuring accountability, protection of human rights and fundamental freedoms, and gender equality,

Recognizing further the growing number of victims of cybercrime and the importance of obtaining justice for those victims, as well as the need to avoid producing gender-differentiated effects in the prevention of and fight against cybercrime,

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 online,

Acknowledging the existing international instruments and efforts at the national, regional and international levels on cybercrime, in particular the Council of Europe Convention on Cybercrime, adopted by the Council of Europe on 8 November 2001, and the African Union Convention on Cyber Security and Personal Data Protection, adopted by the African Union on 27 June 2014,

Convinced that the present United Nations Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes will constitute the necessary international legal framework for international cooperation in preventing and combating cybercrime,

Have agreed as follows:

(European Union and its member States)

Proposal 3

The States Parties to this Convention,

Bearing in mind the purposes and principles of the Charter of the United Nations and remit of the United Nations in harmonizing the actions of nations in achieving those purposes and fulfilling those principles,

Convinced that crimes using information and communications technologies are transnational crimes and, therefore, demand a global response from all States,

Acknowledging that the development of information and communications technologies over the last two decades has revolutionized the way in which societies operate,

Recognizing that while information and communications technologies have contributed significantly to the development of States, the evolution of information and communications technologies and their increased use have led to the emergence of new opportunities for persons with ill-intent to misuse these technologies to carry out criminal activities,

Deeply concerned about the international and domestic threat that crimes committed using information and communication technologies pose to societies and its impact on the well-being of individuals,

Considering that crimes committed using information and communications technologies is a matter of grave concern to the whole international community, making international cooperation to prevent and control it essential,

Convinced of the need to establish common criminal measures with the purpose of protecting society against the scourge of these crimes through the implementation of appropriate legislation and administrative provisions,

Further convinced that the present Convention is necessary to prevent the misuse of information and communications technologies and to facilitate, both domestically and internationally, the detection, investigation and prosecution of any criminal offence committed through the use of information and communication technologies,

Acknowledging the need to uphold and respect human rights and the fundamental principles of due process of law and the rule of law in criminal, civil or administrative proceedings when acting pursuant to the measures established in accordance with this Convention,

Recognizing the principles of sovereignty, sovereign equality and territorial integrity of States,

Convinced that the availability of technical assistance can play an important role in enhancing the ability of States, including by strengthening capacity and by institution-building, to prevent and counter crimes committed using information and communications technologies effectively,

Recalling General Assembly resolution 74/247 of 27 January 2019, in which the Assembly decided that the Ad Hoc Committee established pursuant to that resolution should elaborate a comprehensive International Convention on countering the use of information and communications technologies for criminal purposes,

Have agreed as follows-

(Jamaica on behalf of CARICOM)

Proposal 4

The States Parties to the present Convention,

Convinced that cyberspace should be constructed in strict accordance with the universally acknowledged principles and norms of international law, including the principles of respect for human rights and freedoms, and the principles of peaceful settlement of disputes,

Bearing in mind that each State has sovereignty and jurisdiction over cyberspace within its territory, in accordance with its domestic law,

Concerned at the gravity of the problems and threats to the stability and security of society generated by crimes related to information and communications technologies (ICT), undermining democratic institutions, values and justice, and adversely affecting sustainable development and the rule of law,

Concerned also that the criminal misuse of ICT offers ample opportunities for the commission of other types of criminal act, including computer attacks targeting critical infrastructure facilities, cyberespionage, online child sexual exploitation, terrorism, fraud, trafficking in personal data, and money-laundering,

Concerned further at the increasing number of ICT-related crimes involving large volumes of assets, which may constitute a substantial proportion of States' resources, and which threaten the political stability and sustainable development of those States,

Convinced that ICT-related crimes are a transnational phenomenon that affects the society and economy of all States, demonstrating the critical significance of international cooperation to prevent and combat such crimes,

Convinced further of the need for technical assistance to counter ICT-related crimes, which plays an important role in enhancing the capacities of States to effectively prevent crime and raise the level of information security,

Bearing in mind that the prevention and eradication of ICT-related crimes is the responsibility of all States and that States must cooperate with one another to ensure the effectiveness of their efforts in this field, with the support and involvement of public-private partnership, business, individuals and groups from outside the public sector, such as civil society, given that the overall security of cyberspace as a whole rests on the efforts of each State,

Determined to prevent, detect and suppress more effectively international transfers of assets illicitly acquired as a result of ICT-related crimes, and to strengthen international cooperation for recovery of property,

Bearing in mind also the principles of fairness and equality before the law, and the need to foster a culture in society that does not tolerate ICT-related crime,

Considering United Nations General Assembly resolution 74/247 of 27 December 2019, entitled "Countering the use of information and communications technologies

for criminal purposes”, 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,

Have agreed as follows:

(Russian Federation (also on behalf of Belarus, Burundi, China, Mali, Nicaragua, and Tajikistan))

Proposal 5

Convinced of the need to pursue, as a matter of priority, a common criminal policy aimed at the protection of society against cybercrime, inter alia, by adopting appropriate legislation and fostering international cooperation;

Conscious of the profound changes brought about by the digitalization, convergence and continuing globalization of computer networks;

Concerned by the risk that computer networks and electronic information may also be used for committing criminal offences and that evidence relating to such offences may be stored and transferred by these networks;

Recognizing the need for cooperation between States and private industry in combating cybercrime and the need to protect legitimate interests in the use and development of information technologies;

Believing that an effective fight against cybercrime requires increased, rapid and well-functioning international cooperation in criminal matters;

Convinced that the present Convention is necessary to deter action directed against the confidentiality, integrity and availability of computer systems, networks and computer data, as well as the misuse of such systems, networks and data by providing for the criminalization of such conduct, as described in this Convention, and the adoption of powers sufficient for effectively combating such criminal offences, by facilitating their detection, investigation and prosecution at both the domestic and international levels and by providing arrangements for fast and reliable international cooperation;

Mindful of the need to ensure a proper balance between the interests of law enforcement and respect for fundamental human rights as enshrined in international and regional human rights conventions and treaties, which reaffirm 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 the respect for privacy;

Mindful also of the right to the protection of personal data to help individuals to exercise control over information relating to themselves which is unlawfully collected and used by others;

Considering the Convention on the Rights of the Child of 1989, as well as the Worst Forms of Child Labour Convention, 1999 (No. 182), of the International Labour Organization;

Taking into account the existing international and regional conventions on cooperation in the penal field, as well as similar treaties which exist between United Nations Member States, and stressing that the present Convention is intended to supplement those conventions.

(Switzerland)