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

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

Note by the Chair

1. In preparation for the fifth session of the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes, and in line with the road map and mode of work for the Ad Hoc Committee, approved at its first session, the Committee Chair has prepared, with the support of the Secretariat, a consolidated negotiating document elaborated on the basis of the outcomes of the first reading of the preamble, the provisions on international cooperation, preventive measures, technical assistance and the mechanism of implementation and the final provisions of the draft convention (see annex).

2. More specifically, the consolidated negotiating document draws on elements of proposals by Member States compiled in documents [A/AC.291/12](#), [A/AC.291/12/Add.1](#), [A/AC.291/12/Add.2](#), [A/AC.291/12/Add.3](#) and [A/AC.291/12/Add.4](#), as well as on statements and views expressed by Member States during the third session. An effort was made to propose one option for each provision by incorporating elements taken from different proposals or statements. Square brackets have been used for some terms to reflect the divergent views on their use as expressed by some Member States at the sessions of the Ad Hoc Committee.

3. The first such consolidated negotiating document ([A/AC.291/16](#), annex) was previously prepared on the basis of the outcomes of the first reading of the general provisions and the provisions on criminalization and on procedural measures and law enforcement of the future convention, undertaken by the Ad Hoc Committee at its second session, and was made available for the consideration of the Committee in advance of its fourth session.



Annex

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

Preamble

The States Parties to the present Convention,

Bearing in mind the purposes and principles of the Charter of the United Nations and the remit of the United Nations in harmonizing the actions of nations in achieving those purposes and fulfilling those principles,

Concerned about the negative effects on development, peace and security and human rights caused by [cybercrime] [the use of information and communications technologies for criminal purposes], which undermines democratic institutions and values, as well as justice, and adversely affects the rule of law, and the increasing vulnerability of States to such crime,

Concerned also 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] [the use of information and communications technologies for criminal purposes] and transnational organized crime,

Noting with appreciation the past work, results, and recommendations of the open-ended intergovernmental Expert Group to Conduct a Comprehensive Study on Cybercrime,

Convinced of the need to pursue, as a matter of priority, a common criminal policy aimed at the protection of society against [cybercrime] [the use of information and communications technologies for criminal purposes], inter alia, by adopting appropriate legislation and fostering international cooperation,

Convinced also that [cybercrime] [the use of information and communications technologies for criminal purposes] constitutes transnational crime, which therefore demonstrates the urgent need to strengthen cooperation to prevent and combat such crime more effectively at the national, regional and international levels,

Stressing the need to enhance coordination and cooperation among States in preventing and combating [cybercrime] [the use of information and communications technologies for criminal purposes], 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 such crime 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 growing number of victims of [cybercrime] [the use of information and communications technologies for criminal purposes] and the importance of obtaining justice for those victims,

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,

Determined to prevent, detect and suppress more effectively international transfers of assets illicitly acquired as a result of [cybercrime] [the use of information and communications technologies for criminal purposes], and to strengthen international cooperation in the recovery of property,

Recognizing the principles of sovereignty, sovereign equality and territorial integrity of States,

Recognizing also the need for cooperation between States and civil society, academia and private industry in combating [cybercrime] [the use of information and communications technologies for criminal purposes] and the need to protect legitimate interests in the use and development of information technologies,

Convinced that this Convention is necessary to deter [cybercrime] [the use of information and communications technologies for criminal purposes], as it provides for the criminalization of such conduct, as described in this Convention, and the adoption of powers sufficient for effectively combating such criminal offences, facilitates their detection, investigation and prosecution at both the domestic and international levels and provides for 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 human rights as enshrined in applicable 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 respect for privacy,

Mindful also of the right to the protection of personal data, which helps individuals exercise control over information relating to themselves that may be unlawfully collected and used by others,

Taking into account the existing international and regional conventions on cooperation in the penal field, as well as similar treaties that exist between United Nations Member States,

Have agreed as follows:

[...]

Chapter IV

International cooperation

CLUSTER 1

Article 56. General principles of international cooperation

1. States Parties shall cooperate to the fullest extent possible in accordance with the provisions of this chapter, other international instruments on international cooperation in criminal matters, and agreements based on the principle of reciprocity, as well as domestic laws, with a view to preventing, detecting, disrupting, investigating, prosecuting and adjudicating offences established in accordance with this Convention and to collecting, obtaining, preserving and sharing evidence in electronic form of [offences set forth in this Convention] [any criminal offence] [serious crimes].
2. States Parties shall consider assisting each other in investigations of and proceedings in civil and administrative matters relating to the offences established in accordance with this Convention, as appropriate and as permitted by their domestic legal systems.

3. In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as that of the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties.
4. The powers and procedures provided for in this chapter shall be subject to the conditions and safeguards provided for in article 42.

Article 57. Protection of personal data

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. The requesting State Party shall inform the requested State Party of the period for which the data are 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 they have been received and shall be returned to the requested State Party or deleted or destroyed at the end of the period specified. The requesting State Party shall inform the requested State Party in advance, should it be necessary to keep the data in the requesting State Party for a longer period.
3. The States Parties shall take appropriate measures to ensure that the data transferred to them are protected from accidental or unauthorized destruction, accidental loss or unauthorized access, modification or dissemination.
4. Parties shall keep a record of the data transferred and their destruction.
5. 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.
6. A State Party transmitting personal data on the basis of a request made in accordance with this Convention may require that the State Party to which the data have been transmitted provide information about their use.

CLUSTER 2

Article 58. Extradition

1. (a) This article shall apply to the criminal offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party by a maximum deprivation of liberty of at least one year;
(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. 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.
3. If the request for extradition includes several separate criminal offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.

4. Each of the offences to which this article applies shall 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 political offences.
5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of any offence to which this article applies.
6. States Parties that make extradition conditional on the existence of a treaty shall:
 - (a) At the time of deposit of their instrument of ratification, acceptance, approval of or accession to this Convention, inform the Secretary-General of the United Nations whether they will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and
 - (b) If they do not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.
7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.
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, the grounds upon which the requested State Party may refuse extradition.
9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.
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 only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.
13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested 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 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.

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

16. States Parties 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.

18. The requested State Party shall inform the requesting State Party of its decision with regard to the extradition.

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

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

CLUSTER 3

Article 59. Transfer of sentenced persons

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.

Article 60. Transfer of criminal proceedings

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

CLUSTER 4

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

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

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 35 of this Convention in the requesting State Party.
3. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.
4. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes [with respect to the scope of application of this article established in paragraph 1]:
 - (a) Taking evidence or statements from persons, including representatives of legal 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] [information] stored by means of a computer system located within the territory of the requested State Party, including [data that have] [information that has] been preserved pursuant to article 68;
 - (e) Collecting real-time traffic [data] [information] associated with specified communications in the territory of the requested State Party, governed by the conditions and procedures provided for under that State Party's domestic law, with respect to criminal offences for which the real-time collection of traffic [data] [information] would be available in a similar domestic case of the requested State Party;
 - (f) Collecting or recording content [data] [information] 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, [computer data] [electronic/digital information], 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) Recovering assets;
 - (m) Any other type of assistance that is not contrary to the domestic law of the requested State Party.
5. Paragraphs 6 to 28 shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 6 to 28 of this article in lieu thereof. States Parties are strongly encouraged to apply the provisions of those paragraphs if they facilitate cooperation.
6. States Parties may decline to render mutual legal assistance pursuant to this article and articles 62 to 74 on the ground of absence of dual criminality. However, the requested State Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute

an offence under the domestic law of the requested State Party. 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.

7. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for 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.

8. For the purposes of paragraph 7 of this article:

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

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

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

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

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

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

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

(c) The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention;

(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;

(e) 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.

11. 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.
12. Where not prohibited by their respective laws, States Parties are encouraged to direct central authorities to transmit and receive requests for mutual legal assistance, and communications related thereto, in electronic form. Where acceptable to the central authorities of both States Parties involved, central authorities are also encouraged to transmit and receive electronic evidence.
13. Where a prior agreement exists between central authorities of two States Parties, any documents or other materials transmitted between them in accordance with this Convention shall be exempted from the requirement for certification or authentication.
14. A request for mutual legal assistance shall contain:
 - (a) The identity of the authority making the request;
 - (b) The subject matter and nature of the 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) Where possible, the identity, location and nationality of any person, item or accounts concerned; and
 - (f) The purpose for which the evidence, information or other assistance is sought.
15. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.
16. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.
17. 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.
18. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

19. 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 it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.
20. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.
21. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.
22. Reasons shall be given for any refusal of mutual legal assistance.
23. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on the progress of its handling of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.
24. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or other proceeding.
25. Before refusing a request pursuant to paragraph 19 of this article or postponing its execution pursuant to paragraph 24 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.
26. Without prejudice to the application of paragraph 9 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an 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.
27. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult one another to determine the terms and conditions under which the request will be executed, as well as whether, under the circumstances, the request can be executed and, if so, the manner in which the costs shall be borne.

28. The requested State Party:

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

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

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

Article 62. Conducting interrogations and other procedural actions using video or telephone conferencing systems

1. Competent authorities of States Parties may enter into an agreement to provide mutual legal assistance through the use of video or telephone conferencing systems, as permitted by the legislation of the requested State Party, 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 requested State Party may 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.

2. 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.

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

Article 63. Electronic database on mutual legal assistance requests

Each State 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.

Article 64. Spontaneous information

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 investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for cooperation by that State Party under this chapter.

2. Prior to providing such information, the providing State Party may request that the information it intends to provide be kept confidential or only be used by the receiving State subject to conditions. If the receiving State Party cannot comply with such request, it shall notify the providing State Party, which shall then determine whether the information should nevertheless be provided. If the receiving State Party accepts the information subject to the conditions, it shall be bound by them. A request for confidentiality shall not prevent the receiving State Party from disclosing information in its criminal proceedings that is exculpatory to 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.

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

Article 65. Powers of diplomatic missions and consular offices

1. States Parties shall have the right to serve documents on their own citizens through their diplomatic missions or consular offices.
2. States Parties shall have the right, under instructions from their competent authorities, to interrogate their own citizens through their diplomatic missions or consular offices, including through the use of video or telephone conferencing systems.
3. In the situations referred to in paragraphs 1 and 2 of this article, no means of coercion or threat thereof may be used.

Article 66. Emergency mutual legal assistance

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 this article should include, inter alia, a description of the facts showing that an emergency exists and its relevance 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 have been met, shall respond to the request as promptly as possible.
6. Each State Party shall ensure that an official of its central authority or other authorities who is responsible for responding to requests for mutual assistance under article [61] [on mutual legal assistance] of this Convention can be contacted 24 hours a day, 7 days a week, to respond to a request made pursuant to this article.
7. The central authority or other authorities responsible for mutual assistance in both the requesting and requested States Parties may agree that the results of the execution of a request made 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 the 24/7 network established in accordance with article 67 of this Convention, or channels of the International Criminal Police Organization. In any such cases, a copy of the request shall be sent concurrently to the central authority of the requested State Party through the central authority of the requesting State Party. If the request is made directly to the central authority of the requested State Party and that authority is not the competent authority for execution of the request, the central authority shall refer the request to the competent authority and inform the requesting State Party's central authority of the referral.
9. Each State Party may, at the time of signature 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.

Article 67. 24/7 network

1. Each State Party shall designate a point of contact available 24 hours a day, 7 days a week, in order to ensure the provision of immediate assistance for the purpose of investigations, prosecutions or other proceedings concerning criminal offences established in accordance with this Convention, or for the collection, obtaining, preservation and sharing of evidence in electronic form of [offences set forth in this Convention] [any criminal offence] [serious crimes]. Such assistance shall be provided without undue delay and in a secure manner.
2. The Secretary-General of the United Nations shall be notified of such point of contact and keep an updated register of points of contact designated for the purposes of this article.
3. Such assistance shall include facilitating or, if permitted by the domestic law and practice of a State Party, directly carrying out the following measures:
 - (a) The provision of technical advice;
 - (b) The preservation of stored [computer data] [electronic/digital information] pursuant to articles 68 and 69;
 - (c) The collection of evidence, the provision of legal information and the locating of suspects.
4.
 - (a) A State Party's point of contact shall have the capacity to carry out communications with the point of contact of another State Party on an expedited basis;
 - (b) If the point of contact designated by a State Party is not part of that State Party's authority or authorities responsible for mutual legal assistance or extradition, the point of contact shall ensure that it is able to coordinate with such authority or authorities on an expedited basis.
5. Each State Party shall ensure that trained and equipped personnel are available to facilitate the operation of the network.
6. States Parties shall make full use of and strengthen existing authorized networks of points of contact, where applicable, and within the limits of their domestic laws, including the 24/7 points of contact for computer-related crime of the International Criminal Police Organization.

CLUSTER 5

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

1. A State Party may request another State Party to order or otherwise obtain the expeditious preservation of [data] [information] stored by means of a [computer system] [information and communications technology system/device] located within the territory of that other State Party and in respect of which the requesting Party intends to submit a request for mutual assistance in the search or similar accessing, seizure or similar securing, or disclosure of the [data] [information].
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] [electronic/digital information] to be preserved and [their] [its] relationship to the offence;

(d) Any available information identifying the custodian of the stored [computer data] [electronic/digital information] or the location of the [computer system] [information and communications technology system/device];

(e) The necessity of the preservation;

(f) That the requesting State Party intends to submit a request for mutual assistance in the search or similar accessing, seizure or similar securing, or disclosure of the stored [computer data] [electronic/digital information];

(g) The need to keep the request for preservation confidential and to not notify the user.

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

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

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

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

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

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

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

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

1. Where, in the course of the execution of a request made pursuant to article 68 to preserve traffic [data] [information] concerning a specific communication, the requested State Party discovers that a service provider in another State Party was involved in the transmission of the communication, the requested State Party shall expeditiously disclose to the requesting State Party a sufficient amount of traffic [data] [information] to identify that service provider and the path through which the communication was transmitted.

2. Disclosure of traffic [data] [information] under paragraph 1 may only be refused if:

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

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

*Article 70. Mutual legal assistance in accessing
stored [computer data] [electronic/digital information]*

1. A State Party may request another State Party to search or similarly access, seize or similarly secure, and disclose [data] [information] stored by means of a [computer system] [information and communications technology system/device] located within the territory of the requested State Party, including [data that have] [information that has] been preserved pursuant to article 68.
2. The requested State Party shall respond to the request through the application of relevant international instruments, arrangements and laws referred to in article [56] [on general principles of international cooperation], and in accordance with other relevant provisions of this chapter.
3. The request shall be responded to on an expedited basis where:
 - (a) There are grounds to believe that the relevant [data are] [information is] particularly vulnerable to loss or modification; or
 - (b) The instruments, arrangements and laws referred to in paragraph 2 otherwise provide for expedited cooperation.

*Article 71. Emergency mutual legal assistance in the expedited production
of stored [computer data] [electronic/digital information]*

1. Each State Party shall adopt such legislative and other measures as may be necessary, in an emergency, to enable its point of contact in the 24/7 network referenced in article [67] [on the 24/7 network] of this Convention to transmit a request to and receive a request from a point of contact in another State Party seeking immediate assistance in obtaining from a service provider in the territory of that State Party the expedited production of specified stored [computer data] [electronic/digital information] in that service provider's possession or control.
2. Each State Party may reserve the right not to disclose the specified stored [computer data] [electronic/digital information] to the requesting State Party until the requesting State Party transmits an emergency mutual legal assistance request in accordance with article [66] [on emergency mutual legal assistance].
3. A State Party may, at the time of signature of this Convention or when depositing its instrument of ratification, acceptance, approval or accession, declare that it will not execute requests made in accordance with 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] [electronic/digital information] from a service provider in its territory following a request made in accordance with paragraph 1;
 - (b) A service provider in its territory to disclose the requested [computer data] [electronic/digital information] to its authorities in response to a request made in accordance with subparagraph (a); and
 - (c) Its authorities to provide the requested [computer data] [electronic/digital information] to the requesting State Party.
5. The request made in accordance with paragraph 1 shall specify:
 - (a) The competent authority seeking the [computer data] [electronic/digital information] and the date on which the request was issued;
 - (b) A statement indicating that the request has been issued pursuant to this Convention;
 - (c) The name and address of the service provider or providers in possession or control of the [computer data] [electronic/digital information] sought;

(d) The offence or offences that is or are the subject of the criminal investigation or proceedings and a reference to its or their legal provisions and applicable penalties;

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

(f) A detailed description of the [computer data] [electronic/digital information] sought;

(g) Any special procedural instructions;

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

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

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

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

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

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

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

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

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

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

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

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

their territory transmitted by means of a [computer system] [information and communications technology system/device]. Subject to the provisions of paragraph 2, such assistance shall be governed by the conditions and procedures provided for under domestic law.

2. Each State Party shall provide such assistance at least with respect to criminal offences for which the real-time collection of traffic [data] [information] would be available in a similar domestic case.

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

- (a) The name of the requesting authority;
- (b) A summary of the main facts and the nature of the investigation, prosecution or judicial proceeding to which the request relates;
- (c) The [computer data] [electronic/digital information] in relation to which the collection of the traffic [data] [information] is required and [their] [its] relationship to the offence or other illegal act;
- (d) Any available [data that identify] [information that identifies] the owner or user of the [data] [information] or the location of the [computer system] [information and communications technology system/device];
- (e) Justification for the need to collect the traffic [data] [information];
- (f) The period of collection of the traffic [data] [information] and its corresponding justification.

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

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

CLUSTER 6

Article 75. Law enforcement cooperation

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 covered by 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 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 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 and the location of property, equipment or other instrumentalities used or intended for use in the commission of such offences;
- (c) To provide, where appropriate, necessary items or [data] [information] for analytical or investigative purposes;

(d) To exchange information with other States Parties on specific means and methods used by those committing the offences covered by this Convention, including, where applicable, the use of false identities, altered or false documents or other means of concealing their activities and the use of illicit encrypted platforms and [cybercrime tactics, techniques and procedures] [tactics, techniques and procedures associated with the use of information and communications technologies for criminal purposes], as well as operational indicators of compromise and other indicators of concern;

(e) To exchange information and coordinate administrative and other measures taken, as appropriate, for the purpose of early identification 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, 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 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.

3. States Parties shall endeavour to cooperate within their means to respond to offences covered by this Convention through the use of modern technology.

Article 76. Public-private partnerships to enhance the investigation of [cybercrime] [the use of information and communications technologies for criminal purposes]

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

2. States Parties shall develop guidelines for service providers in assisting law enforcement agencies in the investigation of [cybercrime] [the use of information and communications technologies for criminal purposes], 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.

Article 77. Joint investigations

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

Article 78. Special investigative techniques

1. In order to combat [cybercrime] [the use of information and communications technologies for criminal purposes] effectively, each State Party shall, to the extent permitted by the fundamental principles of its domestic law and subject to the conditions prescribed by its domestic law, to the best of its ability, take such measures

as may be necessary to allow for the appropriate use by its competent authorities of controlled delivery and other special investigative techniques, such as electronic or other forms of surveillance, as well as for the conduct of undercover operations by its competent authorities in its territory, and to ensure that the evidence gathered through such methods is acceptable before the courts.

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

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when 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 collecting and intercepting traffic or content [data] [information], and allowing the uninterrupted transmission of such [data] [information] or [their] [its] removal or replacement in whole or in part.

CLUSTER 7

Article 79. Measures for the recovery of property

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.

Article 80. Measures for the direct recovery of property

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 covered by this Convention;

(b) To permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

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

Article 81. Mechanisms for the recovery of property through international cooperation in confiscation

1. Each State Party, in order to provide mutual legal assistance pursuant to article [82] [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 [the articles on criminalization of] this Convention, shall, in accordance with its domestic law:

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

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

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

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

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property 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.

Article 82. International cooperation for the purposes of confiscation

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article [50] [on freezing, seizure and confiscation of the proceeds of crime], paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

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

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with article [50], paragraph 1, of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities situated in the territory of the requested State Party.

2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article [50], paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

3. The provisions of article [61] [on general principles and procedures relating to mutual legal assistance] are applicable, mutatis mutandis, to this article. In addition to the information specified in article [61], paragraph 14, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property 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;

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

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based.

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or 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.

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

7. Cooperation under this article may be refused by a State Party if the offence to which the request relates is not an offence established in accordance with this Convention. Cooperation under this article may also be refused or provisional measures may be lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a de minimis value.

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

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

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

Article 83. Special cooperation

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 covered by this Convention when it considers that the disclosure of such information might provide grounds for the competent authorities of the receiving State Party to initiate an investigation or judicial proceeding, or might lead to a request by that State Party under this chapter.

*Article 84. Return and disposal of confiscated proceeds of crime or property**[Option 1:]*

1. A State Party that has confiscated property pursuant to the provisions of article [50] [on freezing, seizure and confiscation of the proceeds of crime] or [82] [on international cooperation for the purposes of confiscation], paragraph 1, of this Convention shall dispose of such property, including by returning it to its prior legitimate owners, in accordance with paragraph 3 of this article and its domestic law and administrative procedures.
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 [82] [on international cooperation for the purposes of confiscation] of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:
 - (a) In the case of embezzlement of public property, when confiscation has been executed in accordance with article [93] [on prevention and detection of transfers of proceeds of crime] of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;
 - (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.]

[Option 2:]

1. Proceeds of crime or property confiscated by a State Party pursuant to article [50] [on freezing, seizure and confiscation of the proceeds of crime] or [82] [on international cooperation for the purposes of confiscation], paragraph 1, of this Convention shall be disposed of by that State Party in accordance with its domestic law and administrative procedures.
2. When acting on the request made by another State Party in accordance with article [50] of this Convention, States Parties shall, to the extent permitted by domestic law and if so requested, give priority consideration to returning the confiscated proceeds of crime or property to the requesting State Party so that it can give compensation to the victims of the crime or return such proceeds of crime or property to their legitimate owners.
3. When acting on the request made by another State Party in accordance with article [50] or article [82] of this Convention, a State Party may give special consideration to concluding agreements or arrangements on:
 - (a) Contributing the value of such proceeds of crime or property or funds derived from the sale of such proceeds of crime or property or a part thereof to the account designated in accordance with article [89] [on implementation of the Convention through economic development and technical assistance], paragraph 3 (c), of this Convention and to intergovernmental bodies specializing in the fight against

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

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

Article 85. Expenses

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

Chapter V

Technical assistance, including information exchange

Article 86. General principles of technical assistance

1. The following principles shall guide States Parties with regard to the provision of technical assistance and capacity-building:

(a) Technical assistance and capacity-building shall be carried out in an inclusive manner and include all nations, with particular attention given to developing countries, and all relevant stakeholders;

(b) Each beneficiary shall determine its own priorities, based on country-specific situations and requirements;

(c) Initiatives shall follow 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, transparency and accountability.

Article 87. Training and technical assistance

1. States Parties shall, according to their capacity, consider affording one another the widest measure of technical assistance and capacity-building, especially for the benefit of developing countries, in their respective plans and programmes to prevent and combat [cybercrime] [the use of information and communications technologies for criminal purposes], including material support, training and other forms of assistance and the mutual exchange of relevant experience and specialized knowledge, which will facilitate international cooperation between States Parties in the fight against [cybercrime] [the use of information and communications technologies for criminal purposes].

2. States Parties shall, to the extent necessary, initiate, develop, implement or improve specific training programmes for their personnel responsible for the prevention, detection, investigation and prosecution of the offences covered by this Convention. Such programmes may include secondments and exchanges of staff. 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] [the use of information and communications technologies for criminal purposes];

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

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

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

(f) The training of competent authorities in the preparation of requests for mutual legal assistance and other means of cooperation that meet the requirements of this Convention, especially for the collection, preservation and sharing of electronic evidence, which may be supported by the United Nations Office on Drugs and Crime;

(g) Modern law enforcement equipment and techniques and the use thereof, including electronic surveillance, controlled deliveries and undercover operations;

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

(i) The prevention, detection and monitoring of the movements of proceeds deriving from the commission of the offences covered by this Convention, property, equipment or other instrumentalities;

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

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

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

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

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

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

3. 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.

4. States Parties shall consider assisting one another, upon request, in conducting evaluations, studies and research relating to the types, causes and effects of offences covered by this Convention committed in their respective territories, with a view to developing, with the participation of the competent authorities and main stakeholders, including civil society and the private sector, strategies and action plans to prevent and combat those offences.

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

6. States Parties shall strengthen, to the extent necessary, efforts to maximize the effectiveness of operational and training activities in international and regional organizations and in the framework of relevant bilateral and multilateral agreements or arrangements.

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

8. States Parties that have more advanced capabilities and infrastructure in the field of [cybercrime] [the use of information and communications technologies for criminal purposes] shall assume responsibilities commensurate with those capabilities when providing assistance to other States, in particular developing countries, and when providing support and advice and transferring knowledge to them in the area of countering such crime.

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

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

Article 88. Exchange of information

1. Each State Party shall consider analysing, in consultation with relevant experts, trends in its territory with respect to offences established in accordance with this Convention, as well as the circumstances in which such offences are committed.

2. The States Parties shall consider developing and sharing with each other and through international and regional organizations statistics, analytical expertise and information concerning [cybercrime] [the use of information and communications technologies for criminal purposes], with a view to developing, insofar as possible, common definitions, standards and methodologies, including best practices to prevent and combat such offences.

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

4. States Parties shall consider exchanging information on legal, policy and technological developments related to [cybercrime] [the use of information and communications technologies for criminal purposes] and the gathering of evidence in electronic form.

Article 89. Implementation of the Convention through economic development and technical assistance

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

2. In providing and receiving technical assistance, States Parties shall take into full consideration the principles of shared responsibility, ownership, sustainability, transparency and accountability, through, inter alia:

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

(b) Determining priorities based on country-specific 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.

3. States Parties shall make concrete efforts, to the extent possible and in coordination with each other, as well as with international and regional organizations and civil society, noting in particular the central role of the United Nations Office on Drugs and Crime in this regard:

(a) To enhance their cooperation at various levels with other States Parties, in particular developing countries, with a view to strengthening their capacity to prevent and combat the offences established in accordance with this Convention;

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

(c) To provide technical assistance to other States Parties, in particular developing countries and countries with economies in transition, in support of meeting their needs regarding the implementation of this Convention. To that end, States Parties shall endeavour to make adequate and regular voluntary contributions to an account specifically designated for that purpose in a United Nations funding mechanism. States Parties may also give special consideration, in accordance with their domestic law and the provisions of this Convention, to contributing to that account a percentage of the money or of the corresponding value of proceeds of crime or property confiscated in accordance with the provisions of this Convention;

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

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

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.

6. To the extent possible, States Parties shall ensure that resources and efforts are distributed and directed to support the harmonization of standards, skills, capacity, expertise and technical capabilities with the aim of establishing common minimum standards among States Parties to eradicate safe havens for the offences established in accordance with this Convention and strengthen the fight against [cybercrime] [the use of information and communications technologies for criminal purposes].

7. To the extent possible, the measures taken under this article shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international levels.

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

prosecution and control of the offences established in accordance with this Convention.

9. Each State Party shall, where appropriate, inform the Secretary-General of the United Nations of the name and address of the authority or authorities that can assist other States Parties in accordance with this article.

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

Chapter VI **Preventive measures**

Article 90. General provisions on prevention

1. Each State Party shall endeavor to develop and evaluate national projects and, in accordance with the fundamental principles of its legal system, establish and promote, including through the participation of relevant stakeholders, effective and coordinated policies and best practices aimed at the prevention of [cybercrime] [the use of information and communications technologies for criminal purposes].

2. States Parties shall endeavour, in accordance with fundamental principles of their domestic law, and with applicable international human rights law, to reduce existing or future opportunities for [cybercrime] [the use of information and communications technologies for criminal purposes], through appropriate legislative, administrative or other measures. Preventive measures may focus on:

(a) Strengthening cooperation between law enforcement agencies and other relevant entities, in accordance with national law, especially those in the private sector, in particular financial institutions, as well as the technology sector, non-governmental organizations and the education sector, in addition to the public in general, relating to matters involving the commission of offences covered by this Convention, while ensuring that the burden on such entities is proportionate and that private sector entities fully respect laws protecting rights of their users;

(b) Developing, facilitating and promoting public awareness activities, public information campaigns, public education programmes and curricula and policies aimed at the prevention of [cybercrime] [the use of information and communications technologies for criminal purposes], including media and information literacy programmes targeting in particular vulnerable groups such as children, youth and elderly people. Such information may be disseminated, where appropriate, through the mass media, and relevant programmes and policies shall include measures to promote public participation in preventing and combating [cybercrime] [the use of information and communications technologies for criminal purposes];

(c) Issuing regular, non-binding advisories on incident prevention and sharing them with the public with a view to preventing cyber-incidents that could lead to criminal activities;

(d) Enhancing information security in the private sector, including through the promotion and development of standards and appropriate security procedures;

(e) Encouraging 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;

(f) Establishing policies of quality control of products to be applied in the protection of [computer systems] [information and communications technology systems/devices] before such products are released to public;

(g) Developing strategies and policies to prevent and eradicate gender-based violence, in particular violence against women and girls perpetrated by means of

[cybercrime] [the use of information and communications technologies], and hate crimes, in particular where perpetrated by means of [cybercrime] [the use of information and communications technologies], and suitable for vulnerable groups such as the elderly and persons with disabilities;

(h) Undertaking specific and tailored efforts to keep children safe online. This shall include domestic legal frameworks, practical arrangements and international cooperation arrangements to enable the reporting, detection, investigation, prosecution and deterrence of child sexual abuse and exploitation online;

(i) Building and investing in increasing domestic criminal justice capacity, including training and developing expertise among criminal justice practitioners, as part of national prevention strategies against [cybercrime] [the use of information and communications technologies for criminal purposes];

(j) Information-sharing among industry sectors on trends and risks relating to [cybercrime] [the use of information and communications technologies for criminal purposes], including referrals to competent national authorities;

(k) Incident alerts and countermeasures regarding trends relating to [cybercrime] [the use of information and communications technologies for criminal purposes] distributed to the private sector.

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

4. States Parties shall endeavour to gather national and regional prevention experiences to create a multilateral repository, administered by the United Nations Office on Drugs and Crime, enabling the dissemination of good practices in the prevention of [cybercrime] [the use of information and communications technologies for criminal purposes] in diverse contexts. The Office shall facilitate the sharing of best practices with regard to effective and successful preventive measures against [cybercrime] [the use of information and communications technologies for criminal purposes].

5. States Parties shall collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. This includes participation in international projects aimed at the prevention of [cybercrime] [the use of information and communications technologies for criminal purposes].

Article 91. Authority or authorities responsible for preventing and combating [cybercrime] [offences and other unlawful acts relating to the use of information and communications technologies for criminal purposes]

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of an authority or authorities, as appropriate, dedicated to preventing and combating [cybercrime] [the use of information and communications technologies for criminal purposes].

2. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures to prevent [cybercrime] [the use of information and communications technologies for criminal purposes].

Article 92. 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 outside the public sector, such as non-governmental organizations, academia, the media, the private sector, including the technology sector and financial institutions, and community-based organizations,

in the prevention and combating of [cybercrime] [the use of information and communications technologies for criminal purposes] and to raise public awareness regarding the existence, causes and gravity of and the threat posed by such crime. 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, as well as public education programmes, including school and university curricula, that contribute to non-tolerance of [cybercrime] [the use of information and communications technologies for criminal purposes];

(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning [cybercrime] [the use of information and communications technologies for criminal purpose]. That freedom may be subject to certain restrictions, but those shall only be such as are provided for by law and are necessary for:

(i) Respecting the rights or reputations of others;

(ii) The protection of national security, *ordre public*, public health or morals.

2. Each State Party shall take appropriate measures to ensure that the relevant competent authority or authorities responsible for preventing and combating [cybercrime] [the use of information and communications technologies for criminal purposes], referred to in this Convention, are known to the public, and shall provide access to such authorities, where appropriate, for the reporting, including anonymously, of any incident that may be considered a criminal offence covered by this Convention.

Article 93. Prevention and detection of transfers of proceeds of crime

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 sought or maintained by or on behalf of persons referred to in paragraph 1 of this article.

3. The measures referred to in paragraphs 1 and 2 of this article shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions, or organizations engaged in activities related to the 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 for investigating and taking action to recover proceeds of offences established in accordance with this Convention.

Chapter VII

Mechanism of implementation

[Option 1: Article 94. Conference of the States Parties to the Convention]

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

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.

3. The Conference of the States Parties shall adopt rules of procedure and rules governing the activities set forth in this article, including rules concerning the admission and participation of observers, and the payment of expenses incurred in carrying out those activities.

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 carried out by States Parties under [the chapters on criminalization, procedural measures and law enforcement, international cooperation, technical assistance, and preventive measures] [the chapters on technical assistance and preventive measures] of this Convention, including by encouraging the mobilization of voluntary contributions;

(b) Facilitating the exchange of information among States Parties on patterns and trends in [cybercrime] [the use of information and communications technologies for criminal purposes] and on successful practices for preventing and combating such crime, with the exception of information constituting a State secret in accordance with the legislation of the State Party, and for the return of proceeds of crime;

(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 preventing and combating [cybercrime] [the use of information and communications technologies for criminal purposes], in order to avoid unnecessary duplication of work;

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

(f) Making recommendations to improve this Convention and its implementation;

(g) Taking note of the technical assistance requirements 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, administrative and other measures, as well as on its programmes, plans and practices, 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 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 the States Parties shall establish, if it deems necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention.]

[Option 2: Article 94. Conference of the States Parties to the Convention]

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

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.

3. The Conference of the States Parties shall adopt rules of procedure and rules governing the activities set forth in this article, including rules concerning the admission and participation of observers, and the payment of expenses incurred in carrying out those activities.

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 carried out by States Parties under [the chapters on criminalization, procedural measures and law enforcement, international cooperation, technical assistance, and preventive measures] [the chapters on technical assistance and preventive measures] of this Convention, including by encouraging the mobilization of voluntary contributions;

(b) Facilitating the exchange of information among States Parties on patterns and trends in [cybercrime] [the use of information and communications technologies for criminal purposes] and on successful practices for preventing and combating such crime, with the exception of information constituting a State secret in accordance with the legislation of the State Party, and for the return of proceeds of crime;

(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 preventing and combating [cybercrime] [the use of information and communications technologies for criminal purposes], in order to avoid unnecessary duplication of work;

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

(f) Making recommendations to improve this Convention and its implementation;

(g) Taking note of the technical assistance requirements 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, administrative and other measures, as well as on its programmes, plans and practices, 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 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 the States Parties shall establish, if it deems necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention.

Article 94bis. International Technical Commission

1. The Conference of the States Parties shall create and establish the International Technical Commission on Combating [Cybercrime] [the Use of Information and Communications Technologies for Criminal Purposes], to assist States Parties 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 principle of mixed representation: two thirds of the members shall represent the Conference of the States Parties and one third shall represent the governing bodies of the International Telecommunication Union.

3. The members of the Commission shall be experts with significant direct experience in international relations, international and criminal law, communications technologies or relevant related research.

4. The members of the Commission shall serve for 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 the International Telecommunication Union or of the United Nations Office on Drugs and Crime, or at a time and place indicated or approved by the Conference of the States Parties.
6. The Commission shall develop its own rules of procedure, which are to be approved by the Conference of the States Parties.
7. The Commission shall assess the technological progress made in the field of [cybercrime] [the use of information and communications technologies for criminal purposes].
8. The Commission, through the Conference of the States Parties, shall report on the results of its work to the States Parties and interested international organizations.]

[Option 3: Article 94. 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 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;
 - (b) “Council” means the Economic and Social Council of the United Nations;
 - (c) “General Assembly” means the General Assembly of the United Nations.

Article 94bis. Expenses of the Commission on Crime Prevention and Criminal Justice

The expenses of the Commission on Crime Prevention and Criminal Justice shall be borne by the United Nations in such manner as shall be decided by the General Assembly.

Article 94ter. Review of decisions and recommendations of the Commission on Crime Prevention and Criminal Justice

1. Each decision or recommendation adopted by the Commission on Crime Prevention and Criminal Justice pursuant to the provisions of this Convention shall be subject to approval or modification by the Economic and Social Council or the General Assembly in the same way as other decisions or recommendations of the Commission.
2. The Commission on Crime Prevention and Criminal Justice is charged with the periodic review of the implementation of this Convention, to include:
 - (a) Midterm reviews of implementation, to occur every five years;
 - (b) High-level ministerial reviews of implementation, to occur every 10 years;
 - (c) Annual discussion on treaty implementation as a standing item on the agenda of the Commission on Crime Prevention and Criminal Justice.

Article 94quater. Functions of the Commission on Crime Prevention and Criminal Justice

1. The Commission on Crime Prevention and Criminal Justice is authorized to consider all matters pertaining to the aims of this Convention, to improve the capacity of Member States to combat [cybercrime] [the use of information and

communications technologies for criminal purposes] 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 carried out by States Parties under [the 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] [the use of information and communications technologies for criminal purposes] 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 on Crime Prevention and Criminal Justice 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 on Crime Prevention and Criminal Justice with information on its programmes, plans and practices, as well as legislative and administrative measures, to implement this Convention, as required by the Commission.

*Article 94quinquies. Information to be furnished by
the members of the Commission on Crime Prevention and Criminal Justice*

1. The States Parties shall furnish to the Commission on Crime Prevention and Criminal Justice such information as it may request as being necessary and appropriate for the performance of its functions, in particular:

- (a) A report every five years on the functioning of the Convention within each of their territories;
- (b) The text of all laws and regulations that have been promulgated over the course of time in order to give effect to this Convention;
- (c) Information concerning cases or offences relating to this Convention, including the particulars of appropriate cases that 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.

2. States Parties shall furnish the information referred to in paragraph 1 in such a manner and by such dates, and use such forms, as the Commission on Crime Prevention and Criminal Justice may request.]

Article 95. Secretariat

1. The Secretary-General of the United Nations shall provide the necessary secretariat services to the Conference of the States Parties to the Convention.
2. The Secretariat shall:
 - (a) Assist the [Conference of the States Parties] [Commission on Crime Prevention and Criminal Justice] in carrying out the activities set forth in this Convention and make arrangements and provide the necessary services for the sessions of the [Conference of the States Parties] [Conference of the States Parties and the International Technical Commission on Combating [Cybercrime] [the Use of Information and Communications Technologies for Criminal Purposes]] [Commission on Crime Prevention and Criminal Justice] as they pertain to this Convention;
 - (b) Upon request, assist States Parties in providing information to the [Conference of the States Parties] [Conference of the States Parties and the International Technical Commission on Combating [Cybercrime] [the Use of Information and Communications Technologies for Criminal Purposes]] [Commission on Crime Prevention and Criminal Justice], as envisaged in this Convention; and
 - (c) Ensure the necessary coordination with the secretariats of relevant international and regional organizations.

Chapter VIII

Final provisions

Article 96. Implementation of the Convention

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.
2. Each State Party may adopt more strict or severe measures than those provided for by this Convention for preventing and combating [cybercrime] [the use of information and communications technologies for criminal purposes].

Article 97. Effects of the Convention

1. If two or more States Parties have already concluded an agreement or treaty on the matters dealt with in this Convention or have otherwise established their relations on such matters, or should they in future do so, they shall also be entitled to apply that agreement or treaty or to regulate those relations accordingly.
2. 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.

Article 98. Relation with protocols

1. This Convention may be supplemented by one or more protocols.
2. Such protocols shall be negotiated and adopted following the same procedural and organizational rules followed for the negotiation and adoption of this Convention.
3. In order to become a Party to a protocol, a State or a regional economic integration organization must also be a Party to this Convention.

4. A State Party to this Convention is not bound by a protocol unless it becomes a Party to the protocol in accordance with the provisions thereof.
5. Any protocol to this Convention shall be interpreted together with this Convention, taking into account the purpose of that protocol.

Article 99. Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation.
2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
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.

Article 100. Reservations

[On the basis of the statements made by many Member States during the third session of the Ad Hoc Committee, the need for this provision and its content should be assessed once discussions on the substantive provisions of the draft convention have reached a more advanced stage.]

Article 101. Signature, ratification, acceptance, approval and accession

1. This Convention shall be open to all States for signature from [date] to [date] in [city], [country], and thereafter at United Nations Headquarters in New York until [date].
2. This Convention shall also be open for signature by regional economic integration organizations, provided that at least one member State of such organization has signed this Convention in accordance with paragraph 1 of this article.
3. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.
4. This Convention is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Convention. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 102. Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the [thirtieth] [fortieth] [fiftieth] [seventieth] instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.
2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the [thirtieth] [fortieth] [fiftieth] [seventieth] instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Convention enters into force pursuant to paragraph 1 of this article, whichever is later.

Article 103. Amendment

1. After the expiry of five years from the entry into force of this Convention, a State Party may propose an amendment and transmit it to the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the States Parties to the Convention for the purpose of considering and deciding on the proposal. The Conference of the States Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference of the States Parties.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.
3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.
4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.
5. When an amendment enters into force, it shall be binding on those States Parties that have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Convention and any earlier amendments that they have ratified, accepted or approved.

Article 104. Denunciation

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.
2. A regional economic integration organization shall cease to be a Party to this Convention when all of its member States have denounced it.
3. Denunciation of this Convention in accordance with paragraph 1 of this article shall entail the denunciation of any protocols thereto.

Article 105. Depositary and languages

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

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