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Strasbourg, 5 June 2013

T-CY (2013)22E rev

Cybercrime Convention Committee (T-CY)

9th Plenary

Strasbourg, 4-5 June 2013

Abridged meeting report

1 Introduction

The T-CY Committee, meeting in Strasbourg on 4 and 5 June 2013, was chaired by Markko Künnapu (Estonia). Some 80 representatives of State Parties and Observers participated.

The meeting was preceded by a hearing on transborder access to data for private sector and civil society organisations held on 3 June 2013.

2 Decisions

The T-CY decided:

Agenda item 2: Status of signatures, ratifications, accessions to the Budapest Convention and its Protocol

- To welcome the recent accession by the Dominican Republic and the invitations to accede to Israel and Morocco.
- To welcome ongoing reforms underway in a number of States that are signatories or that have been invited to accede in view of becoming Parties.

Agenda item 3: Information provided by parties and observers – Tour de table

- To take note of information shared on efforts underway to strengthen legal frameworks and institutional capacities on cybercrime in Argentina, Australia, Austria, Canada, Costa Rica, Estonia, Finland, Georgia, Israel, Japan, Netherlands, Norway, Philippines, Portugal, Romania, Senegal, Serbia, Slovakia, South Africa, Sweden, Switzerland, Turkey and the United Kingdom as well as India and Paraguay.
- To recommend that a workshop for 24/7 points of contact, established under Article 35 Budapest Convention, be held at the forthcoming Octopus Conference.

Agenda item 4: Dialogue with international organisations (T-CY observers)

- To welcome the information provided by representatives of the African Union Commission, European Union, including the European Cybercrime Centre EC3 at Europol, the G8 High-tech Crime Sub-group, Interpol, the Organisation for Security and Cooperation in Europe (OSCE) and the United Nations Office on Drugs and Crime (UNODC).

Agenda item 5: Assessment of Articles 31 and related Articles on international cooperation: Review of replies to the questionnaire

- To acknowledge the replies received from 35 Parties and Observers and to encourage the remaining Parties and Observer States to send their replies by 10 July 2013.
- To invite Parties and Observers that already sent replies to review and complement their information in the light of discussions held at the 9th Plenary by 10 July 2013.
- To request the T-CY Bureau and the Secretariat to prepare and the Secretariat to circulate a revised draft assessment report by 1 November for consideration by the 10th Plenary.

Agenda item 6: Data protection

- To welcome the update provided on reforms underway regarding data protection frameworks within the Council of Europe and the European Union.
- To follow negotiations of these frameworks in view of their possible implications on the Budapest Convention on Cybercrime.

Agenda item 7: Transborder access to data

- To appreciate the views, including on data protection, shared by a range of private sector and civil society organisations as well as representatives of States and international organisations in the hearing on transborder access to data held on 3 June 2013, and to consider them in the further work of the T-CY.
- To invite additional comments in writing from members and observers in the T-CY on draft Guidance Note #3 on Article 32 by 1 September 2013 for consideration by the Ad-hoc Sub-group on Transborder Access to Data.
- To commence work on a draft 2nd Additional Protocol to the Convention on Cybercrime (ETS 185) regarding transborder access to data in line with the Decision and Terms of Reference adopted by the Plenary and as contained in the Appendix.
- To continue to consider data protection standards applicable in the criminal justice area in the further T-CY work on transborder access to data.

Agenda item 8: Guidance notes¹

- To adopt:
 - Guidance Note # 2 Botnets
 - Guidance Note # 4 Identity theft
 - Guidance Note # 5 DDOS attacks
 - Guidance Note # 6 Critical Information Infrastructure attacks
 - Guidance Note # 7 New forms of Malware.

Agenda item 9: T-CY Workplan: summary of progress made in the 2012-13 workplan and collection of initial proposals for the 2014-15 workplan

- To underline the progress made in the implementation of the T-CY workplan for the period 2012 – 2013.
- To request the T-CY Bureau and Secretariat to prepare a draft workplan for the period 2014 – 2015 for consideration by the 10th Plenary of the T-CY based on proposals made by T-CY members.
- To invite T-CY members to submit additional proposals by 1 September 2013.

Agenda item 10: Financial resourcing of the T-CY for 2014-15

- To acknowledge that the resourcing of the T-CY has not been aligned with the increased level of activity of and enlarged membership in the T-CY, and that therefore the T-CY is currently under-resourced.

¹ http://www.coe.int/t/dqhl/cooperation/economiccrime/cybercrime/T-CY/Default_TCY_en.asp

- To take note that the majority of Parties support the option of voluntary contributions through a specific project in support of the T-CY, Octopus and technical assistance, that is "option 3" of document T-CY(2013)19.²
- To invite T-CY members to consider the draft decision on the financial resourcing as contained in the appendix in view of adoption by written procedure by 30 June 2013.
- To task the T-CY Bureau to prepare with the support of the Secretariat, a draft statute for consideration at the 10th Plenary.

Agenda item 11: Elections

- To elect Mr. Tsuyoshi Kitagawa to the Bureau of the T-CY.

Agenda item 12: Any other business

- To adopt the opinion of the T-CY on the "Draft Convention against the manipulation of sports competitions" (version 2.1 of 27 March 2013) and to request the Secretariat to forward this opinion to the Secretariat of the Enlarged Partial Agreement on Sports.
- To take note of the technical cooperation activities of the Council of Europe under the Global Project on Cybercrime (Phase 3) and the joint projects of the Council of Europe and the European Union CyberCrime@IPA and CyberCrime@EAP.
- To welcome the preparation of the new joint project on Global Action on Cybercrime which is to be launched in the 2nd half of 2013.

Agenda item 13: Next meeting of the T-CY

- To propose to hold the 10th Plenary of the T-CY on 2-3 December 2013 prior to the Octopus Conference (4-6 December 2013), subject to the availability of resources.
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² [http://www.coe.int/t/dghl/cooperation/economiccrime/Source/Cybercrime/TCY/TCY%202013/T-CY\(2013\)19_tcy_funding_v6.pdf](http://www.coe.int/t/dghl/cooperation/economiccrime/Source/Cybercrime/TCY/TCY%202013/T-CY(2013)19_tcy_funding_v6.pdf)

3 Appendix

3.1 Annotated agenda

<p>Public hearing on transborder access to data Monday, 3 June (10h00/17h30)</p>
<p>9th Plenary Tuesday – Wednesday, 4-5 June (9h30/18h00)</p>
<p>1. Opening of the 9th Plenary and adoption of the agenda</p>
<p>2. Status of signatures, ratifications, accessions to the Budapest Convention and its Protocol</p> <p>Participants are invited to discuss the status of signature, ratification or accession by specific countries.</p>
<p>3. Information provided by parties and observers – Tour de table</p> <p>Participants are invited to present information on legislative developments, major cases, important events, training provided to other countries etc.</p>
<p>4. Dialogue with international organisations (T-CY observers)</p> <p>Representatives of international organisations with observer status in the T-CY are invited to present relevant activities and engage in a dialogue with T-CY members. Observers include the African Union Commission, ENISA, European Union, Interpol, ITU, OAS, OECD, OSCE, UNODC, G8 High-tech Crime Subgroup.</p>
<p>5. Assessment of Articles 31 and related Articles on international cooperation: Review of replies to the questionnaire</p> <p>Based on a compilation of replies prepared by the Secretariat, T-CY members are invited to discuss the responses to the Questionnaire and to commence the assessment of Article 31 and related provisions on international cooperation.</p>
<p>6. Data protection</p> <p>This session is to provide an overview of efforts underway regarding the reform of data protection frameworks at the Council of Europe, the European Union and the OECD.</p> <p>T-CY members are invited to discuss the implications on the work related to the Budapest Convention on Cybercrime.</p>
<p>7. Transborder access to data*</p> <p>The T-CY is invited to consider</p> <ul style="list-style-type: none"> – the draft Guidance Note # 3 on Transborder Access to Data in view of adoption – the results of the public hearing of 3 June – the scope of a Protocol on transborder access in view of a decision regarding work on a Protocol

<ul style="list-style-type: none"> - the draft Committee of Ministers mandate for the preparation of a Protocol in view of adoption
<p>8. T-CY Guidance Notes*</p> <p>The T-CY is invited to consider draft Guidance Notes in view of their adoption:</p> <ul style="list-style-type: none"> - Guidance Note # 2 Botnets - Guidance Note # 4 Identity theft - Guidance Note # 5 DDOS attacks - Guidance Note # 6 Critical Information Infrastructure attacks - Guidance Note # 7 New forms of Malware
<p>9. T-CY Workplan: summary of progress made in the 2012-13 workplan and collection of initial proposals for the 2014-15 workplan</p> <p>The chair will inform members of progress made in the implementation of the T-CY workplan. Participants are invited to discuss next steps.</p> <p>T-CY members are invited to make initial proposals for the 2014-15 workplan of the T-CY. This will subsequently allow the Bureau to prepare a draft workplan 2014-15 for consideration at the 10th Plenary of the T-CY.</p>
<p>10. Financial resourcing of the T-CY for 2014-15*</p> <p>The Secretariat will inform participants on the state of financial resources available for the T-CY in 2014-15.</p> <p>T-CY members are invited to make suggestions regarding the financial resourcing of the T-CY for 2014-15.</p>
<p>11. Elections*</p> <p>In line with decisions taken at the 7th Plenary (4-5 June 2012) and the Rules of Procedure for the Bureau as revised at the 8th Plenary, T-CY members are invited to elect additional members of the Bureau to reflect geographical distribution following ratifications and accessions to the Budapest Convention by non-European States.</p>
<p>12. Any other business</p> <ul style="list-style-type: none"> - Activities of technical cooperation projects - Other matters
<p>13. Next meeting of the T-CY*</p> <p>T-CY members are invited to decide on the proposal to hold the 10th T-CY Plenary on 2-3 December 2013, followed by the Octopus Conference on 4-6 December. This proposal is subject to the availability of funding.</p>

3.2 List of participants

9th T-CY PLENARY
Strasbourg, 4-5 June 2013

LIST OF PARTICIPANTS

Bureau members

Country	Name	Institution
ESTONIA	Mr Markko KÜNNAPU (T-CY Chair)	Adviser Ministry of Justice Tonismagi 5A EST-15191 Tallinn
PORTUGAL	Mr Pedro VERDELHO (T-CY Representative)	Public Prosecutor General Prosecutor's Office of Lisbon Procuradoria Geral da Republica Rua de Vale do Pereiro, nº 2, 3º 1269-113 LISBOA
ROMANIA	Ms Ioana ALBANI	Chief Prosecutor, Head of the Cybercrime Unit Prosecutor's Office attached to the High Court of Cassation and Justice Directorate for the Investigation of Organised Crime and Terrorism offences 14, Libertatii Blvd, Sector 5, Bucharest
SERBIA	Mr Branko STAMENKOVIC (T-CY Representative)	Head of the Special Department for High-Tech Crime of HPPO Belgrade Office of the Public Prosecutor of Serbia Nemanjina 22-26 str. RS-11000 Belgrade
UNITED KINGDOM	Mr Justin MILLAR (T-CY Representative)	Head of Cyber Crime Policy Home Office London
USA	Ms Betty SHAVE (T-CY Representative)	Assistant Deputy Chief for International Computer Crime Computer Crime and Intellectual Property Section US Department of Justice Washington, DC

Parties to the Convention

Country	Name	Institution
ALBANIA	Ms Diana STILLO SILA (T-CY Representative)	Department of Foreign Jurisdictional Relations Ministry of Justice
ARMENIA	Mr Armen ABRAHAMYAN	Officer, Fight Against High-tech Crimes, General Department of Struggle Against Organized Crime Police of the Republic of Armenia Nalbandyan str n. 130, 0025 Yerevan
AUSTRALIA	Mr Simon LEE	Senior Legal Officer Telecommunications and Surveillance Law Branch

AUSTRIA	Mr Kai MAYER (T-CY Representative)	Federal Ministry of the Interior Criminal Intelligence Service Josef Holaubek Platz 1 A-1090 WIEN
AZERBAIJAN		
BELGIUM	Mr Frederik DECRUYENAERE (T-CY Representative)	Attaché au Service des Infractions et Procédures Particulières Service Public Fédéral Justice Boulevard de Waterloo, 115 1000 BRUXELLES
BOSNIA AND HERZEGOVINA	Mr Tomislav CURIĆ (T-CY Representative)	Expert Adviser Department for Combating Organized Crime and Corruption Ministry of Security Trg BiH 1, 71000 Sarajevo
BULGARIA	Mr Vasil PETKOV	Inspector Cybercrime, IPR and Gambling Section, General Directorate Combating Organized Crime, Ministry of Interior
CROATIA	Mr Ivan MIJATOVIC	High-tech Crime Department, National Police Office for Suppression of Corruption and Organized Crime
CYPRUS		
DENMARK		
DOMINICAN REPUBLIC	Mr César MOLINÉ (T-CY Representative)	Legal Counsel Instituto Dominicano de las Telecomunicaciones Ave. Abraham Lincoln 962, Edificio Osiris, Santo Domingo, Distrito Nacional, República Dominicana
FINLAND	Mr Jani JUKKA (T-CY Representative)	District Prosecutor / Key Prosecutor Computer Crime Prosecutor's Office of Länsi-Uusimaa Vitikka 1 B 1 FIN-02630 Espoo
FINLAND	Mr Jouko HUHTAMÄKI	Ministerial Adviser Police department Ministry of the Interior Kirkkokatu 12 00100 HELSINKI
FRANCE	Ms Delphine GAY (T-CY Representative)	Capitaine de Police OCLCTIC Ministère de l'Intérieur 101 rue des Trois Fontanot 92000 Nanterre
GEORGIA	Mr Giorgi TIELIDZE (T-CY Representative)	Chief Specialist, International relations department Ministry of Internal Affairs
GERMANY	Mr Ullrich WETZEL	Deputy Head of Division Federal Ministry of Justice Economic Crime, Computer Crime, Corruption-related Crime and Environmental Crime Division Mohrenstraße 37 10117 Berlin
HUNGARY	Ms Anita PAPAI	Ministry of Interior Department of Codification and Coordination
ICELAND		

ITALY	Mr Eugenio ALBAMONTE (T-CY Representative)	Deputy Public Prosecutor at the Court of Rome
JAPAN	Mr Tsuyoshi KITAGAWA	Principal Deputy Director International Safety and Security Cooperation Division, Foreign Policy Bureau, Ministry of Foreign Affairs of Japan
JAPAN	Mr Yoshimitsu YAMAUCHI	Senior Attorney for International Affairs Criminal Affairs Bureau Ministry of Justice
JAPAN	Mr. Makoto NAKAMURA	Assistant Director, Cybercrime Division, Community Safety Bureau, National Police Agency
JAPAN	Ms Akino KOWASHI	Official, International Safety and Security Cooperation Division, Foreign Policy Bureau, Ministry of Foreign Affairs
JAPAN	Mr Hideaki GUNJI	Attorney/Consul Consulate-General of Japan in Strasbourg 20 place des Halles F-67000 Strasbourg
LATVIA	Mr Aleksandrs BUKO (T-CY Representative)	State Police Head of Unit Combating Cybercrime and IPR Protection Unit Stabu Street 89 LV – 1009 Riga
LITHUANIA	Mr Žilvinas SIDERAVIČIUS (T-CY Representative)	Chief Investigator Police Department Ministry of the Interior Criminal Police Board Saltoniškių str. 19 Vilnius
MALTA		
MOLDOVA	Mr Veaceslav SOLTAN (T-CY Representative)	Prosecutor Chief of Department on Information Technology and Cybercrime Investigation General Prosecutor Office Mitropolit Banulescu-Bodoni, 26 MD-Chisinau
MONTENEGRO		
NETHERLANDS	Ms Caroline GERRITSMAN- BREUR	National Prosecutor's Office
NETHERLANDS	Mr Lennert BRANDERHORST	Law Enforcement Department Ministry of Justice Schedeldoekshaven 100 NL-2511 EX Den Haag H9.42
NORWAY	Ms Anne BRODTKOB (T-CY Representative)	Assistant Director General Ministry of Justice
NORWAY	Mr Eirik TRØNNES HANSEN	Prosecutor Kripos 6, Brynsalleen 0667 Oslo Postboks 8163 Dep. 0034
ROMANIA	Ms Cristina SCHULMAN (T-CY Representative)	Legal Adviser Ministry of Justice Directorate International Law and Judicial Cooperation 5, Apolodor Street RO - 050741 Bucharest

SLOVAKIA	Mr Branislav KADLEČÍK (T-CY Representative)	General State Counsellor Ministry of Justice of the Slovak Republic Department of International and European Public Law Župné nám. 13 813 11 Bratislava
SLOVENIA	Mr Toni KASTELIC (T-CY Representative)	Head of Computer Investigation Centre Criminal Police Directorate Stefanova 2 1000 Ljubljana
SPAIN	Mr Cesar LORENZANA	Captain Deputy Head of Cybercrime Central Unit Guardia Civil Calle Salinas del Rosio 33-35 E - 28042 Madrid
SPAIN	Ms Ana Maria MARTIN	Cybercrime Prosecutor's Office General Prosecutor's Office C/ José Ortega y Gasset, 57 - 1º
SWITZERLAND	Mr Andrea CANDRIAN (T-CY Representative)	Stv. Chef, International Criminal Law Unit Federal Office of Justice Bundesrain 20 CH-3003 Bern
"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"	Mr Vladimir MILOSHESKI	Public Prosecutor Basic Public Prosecutor's Office in Skopje XII Udarne brigada Br. 2-a 1000 Skopje
"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"	Mr Marjan STOILKOVSKI	Head of Cybercrime Unit Section of Financial Crime Centre for Repression of Organized and Serious Crime Ul. Dimce Mircev bb; 1000 Skopje
UKRAINE	Mr Valentyn PETROV (T-CY Representative)	Expert Security Service of Ukraine Volodymyrska str. 33 Kyiv

Observer States

Country	Name	Institution
ANDORRA		
ARGENTINA	Mr Norberto FRONTINI	Subsecretaria de Política Criminal Ministerio de Justicia, Seguridad y Derechos Humanos Sarmiento 329, 4º piso Ciudad Autónoma de Buenos Aires, C1041AAG AG-Buenos Aires
CANADA	Mr Gareth SANSOM	Director, Technology and Analysis, Criminal Law Policy Section, Department of Justice Canada
CZECH REPUBLIC		
CHILE	Ms Carlos LANDEROS	Ministerio des Interior y Seguridad
COSTA RICA	Mr Adalid MEDRANO	Abogado & Consultor en Nuevas Tecnologías Aptdo.54-2010 San José, Costa Rica
GREECE		
IRELAND		

ISRAEL	Ms Orit KREMER	Treaties Department Office of the Legal Advisor Ministry of Foreign Affairs 9 Yitzhak Rabin Blvd. Jerusalem 91035.
LIECHTENSTEIN		
LUXEMBOURG		
MEXICO	Mr. José Humberto LÓPEZ- PORTILLO SÁNCHEZ	Deputy Attaché for Legal Affairs Office for Europe of the Attorney General of Mexico Embassy of Mexico in Spain
MEXICO	Mr Alejandro MARTINEZ	Deputy Permanent Representative, <i>Chargé d'Affaires a.i</i> Permanent Representation of Mexico to the Council of Europe
MONACO		
MOROCCO		
PANAMA		
PHILIPPINES	Mr Geronimo SY	Assistant Minister Ministry of Justice Padre Faura, Ermita 1000 Manila
POLAND		
RUSSIAN FEDERATION	Mr Boris VASILYEV	Third Secretary Department of New Challenges and Threats Ministry of Foreign Affairs
RUSSIAN FEDERATION	Mr Konstantin KOSORUKOV	Deputy for Legal Affairs to the Permanent Representative of the Russian Federation at the Council of Europe
SAN MARINO		
SENEGAL	Mr Papa Assane TOURE	Conseiller technique Ministère de la Justice Dakar
SOUTH AFRICA	Mr Pitso MONTWEDI	Chief Director, Human Rights & Humanitarian Affairs Department of International Relations and Cooperation
SOUTH AFRICA	Mr Zoyisile MSHUNQANE	Department of International Relations and Cooperation
SWEDEN	Mr Mikael KULLBERG	Rättssakkunnig Åklagarenheten Justitiedepartementet Regeringskansliet 103 33 Stockholm
SWEDEN	Ms Mr Jan TIBBLING	Senior Public Prosecutor, Swedish Economic Crime Authority, STOCKHOLM
TURKEY	Mr Bilal SEN	Superintendent TNP - Cyber Crimes Department Bilişim Suçlarıyla Mücadele Daire Başkanlığı Söğütözü / Ankara

Other States

Country	Name	Position
INDIA	Mr Gince K. MATTAM	Attache (EG&IT) Ministry of External Affairs
PARAGUAY	Mr Ariel MARTINEZ	Attorney General Office Cybercrime Unit
PARAGUAY	Mr Enrique CARRILLO	Ministry of Foreign Affairs

Observer Organisations

Organisation	Name	Position
AFRICAN UNION COMMISSION (AUC)	Mr Okechukwu Emmanuel IBE	Coordinator, Chairperson Office 1 Roosevelt street, W.22, K.19 Addis-Ababa, Ethiopia
ENISA		
EUROPEAN UNION	Ms Cathrin BAUER-BULST	DG Home Affairs Fight against cybercrime European Commission
EUROPEAN UNION	Ms Katerina DIMITRAKOPOULOU	Policy Officer Directorate fundamental rights and Union citizenship Unit C3 Data Protection European Commission
EUROPEAN UNION	Mr Rudolf ROY	Head of Security Policy and Sanctions division European External Action Service 1046 Brussels, Belgium
EUROPOL	Mr Marnix AUMAN	Head Cyber Intelligence European Cybercrime Centre
G8 Roma-Lyon Group	Mr Thomas DUKES	Chair of the G8 Roma-Lyon Group's High-Tech Crime Subgroup
INTERPOL	Ms Viola VEIDERPASS	Senior Expert INTERPOL Digital Crime Centre
ORGANIZATION OF AMERICAN STATES (OAS)		
OSCE	Mr Nemanja MALISEVIC	Cyber Security Officer Wallnerstr. 6 1010 Vienna Austria
UNODC	Mr Steven MALBY	Drug Control and Crime Prevention Officer Organized Crime and Illicit Trafficking Branch Division for Treaty Affairs

Council of Europe Committees

Committee	Name	Position
CDMSI	Mr Garegin CHUGASZIAN	Executive Director IT Foundation 2 Arshakuniats Ave., II Floor 375023 Yerevan
T-PD	Mr Matthias SCHMIDL	Office of the Data Protection Commission Hohenstaufengasse 3 1010 Vienna
PACE Committee on Culture, Science, Education and Media Sub-Committee on Media and Information Society	Mr Rüdiger DOSSOW	Secretary of the Committee on Culture, Science, Education and Media Parliamentary Assembly of the Council of Europe

Experts

Name	Institution
Mr Jonathan BOURGUIGNON	Doctorat d'Etat (PhD) in International Law Université Panthéon-Assas (Paris 2)
Mr Marcos SALT	Professor of Criminal Law and Procedural Law University of Buenos Aires AG-1060 Buenos Aires

Council of Europe Secretariat

Name	Details
Mr Alexander SEGER	Secretary of the Cybercrime Convention Committee Head of Data Protection and Cybercrime Division Information Society and Action against Crime Directorate Directorate General Human Rights and Rule of Law Tel +33 (0)3 90 21 45 06 Fax +33 (0)3 90 21 56 50 alexander.seger@coe.int
Ms Sophie KWASNY	Head of Data Protection Unit Data Protection and Cybercrime Division Information Society and Action against Crime Directorate Directorate General Human Rights and Rule of Law Tel +33 390 21 43 39 sophie.kwasny@coe.int
Mr Mustafa FERATI	Programme Officer Data Protection and Cybercrime Division Information Society and Action against Crime Directorate Directorate General Human Rights and Rule of Law Tel +33 390 21 45 50 mustafa.ferati@coe.int
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3.3 Item 7: Decision to commence work on a Protocol on Transborder Access to Data

Decision

adopted by the Cybercrime Convention Committee at its 9th Plenary (4-5 June 2013)

The T-CY,

1. Considering the report on "Transborder access and jurisdiction" (T-CY(2012)3 adopted by the T-CY at its 8th Plenary on 6 December 2012³;
2. Taking note of the "draft elements of an Additional Protocol to the Budapest Convention on Cybercrime regarding transborder access to data" prepared by the T-CY Ad-hoc Subgroup on Transborder Access and discussed by the T-CY at its 9th Plenary⁴;
3. Agrees to commence the preparation of a draft 2nd Additional Protocol the Convention on Cybercrime regarding transborder access to data.

Appendix: Terms of Reference

Preparation by the Cybercrime Convention Committee of a draft 2nd Additional Protocol to the Convention on Cybercrime (ETS 185) regarding transborder access to data

Terms of reference valid from: **1 January 2014 until 31 December 2015**

Main tasks
Having regard to Article 44 of the Convention on Cybercrime and the decision adopted by the T-CY at its 9 th Plenary (4-5 June 2013) in line with Article 46 of the Convention on Cybercrime, the T-CY will finalise and submit to the Committee of Ministers – via the European Committee on Crime Problems (CDPC) – a proposal for a 2 nd Additional Protocol on Transborder Access to Data to the Convention on Cybercrime (ETS No. 185).
Expected results
A draft 2 nd Additional Protocol to the Convention on Cybercrime (ETS No. 185) regarding Transborder Access to Data – including an Explanatory Report – is prepared and adopted by the T-CY.
Composition of the Plenary
Members: State Parties to the Convention on Cybercrime as represented in the T-CY.
Observers: The following Council of Europe bodies may send one or more representatives, without the right to vote but with defrayal of expenses at the charge of their respective administrative Budgets:

³ http://www.coe.int/t/DGHL/cooperation/economiccrime/cybercrime/Documents/Reports-Presentations/TCY_2012_3_transborder_rep_V31public_7Dec12.pdf

⁴ [http://www.coe.int/t/dghl/cooperation/economiccrime/Source/Cybercrime/TCY/TCY%202013/T-CY\(2013\)14transb_elements_protocol_V2.pdf](http://www.coe.int/t/dghl/cooperation/economiccrime/Source/Cybercrime/TCY/TCY%202013/T-CY(2013)14transb_elements_protocol_V2.pdf)

- the Consultative Committee of Data Protection Convention 108 (T-PD)
- the European Committee on Legal Co-operation (CDCJ)
- the European Committee on Crime Problems (CDPC)
- the Steering Committee on the Media and Information Society (CDMSI)
- the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC).

States with observer status in the T-CY may send representatives, without the right to vote and without defrayal of expenses.

Organisations with observer status in the T-CY may send representatives without the right to vote and without defrayal of expenses, including:

- the African Union Commission
- the European Union
- European Network and Information Security Agency (ENISA)
- Europol
- Interpol
- International Telecommunication Union (ITU)
- Organization of American States (OAS)
- Organisation for Economic Co-operation and Development (OECD)
- Organisation for Security and Co-operation in Europe (OSCE)
- United Nations Office on Drugs and Crimes (UNODC)
- G8 High-tech Crime Subgroup.

The T-CY may invite individual subject-matter experts on an ad-hoc basis.

The T-CY may hold public hearings.

Observers from States and organisations other than those referred to above can be admitted upon request to the Secretary General, on the basis of a unanimous decision by the T-CY.

Working methods

The draft Protocol will be prepared and finalised by the T-CY.

The regular T-CY Plenary meetings (4 Plenaries scheduled for 2014/15) will be extended by one day each for work on the Additional Protocol.

The T-CY Transborder Group will assist the Plenary in the preparation of the Additional Protocol. The Group will consist of T-CY Bureau members ex-officio. T-CY members are invited to participate in the respective meetings of the Group without defrayal of expenses. Individual experts may be invited to participate in meetings of the Group.

Meetings:

- 4 T-CY Plenary meetings in 2014-2015
- 6 T-CY Transborder Group meetings in 2014-2015

Budgetary information

Meetings per year	Number of days per meeting	Members	Plenary	Trans-border Group	Secretariat (A, B)
2 Plenaries	1	39	EUR 25,000*		0.2 A* ; 0.2 B*
3 Transborder Group	1	9		EUR 5,000*	

*These figures take into consideration cost in addition to the cost for regular Plenary and Bureau meetings (per diem, interpretation, translation and document printing). Cost will increase to the extent that additional States become Parties.

3.4 Item 10: Financial resourcing – draft decision on the option to be pursued

The T-CY,

Considering the note prepared by the Secretariat on "Ensuring T-CY financing – Options for consideration by the 9th T-CY Plenary" (document T-CY(2013)9)⁵;

Recalling discussions on T-CY financing already held at its 5th Plenary in June 2010 (document T-CY(2010)03);

Underlining the increased level of activity of the T-CY since the adoption of its workplan at its 6th Plenary (November 2011) covering the period January 2012 – 31 December 2012 (document T-CY(2011)4), including inter alia:

- the assessment of implementation of the Convention by the Parties;
- the preparation of Guidance Notes;
- the work on transborder access to data;
- the doubling of the number of plenary and bureau meetings which help enhance practical cooperation and networking;
- the successful coordination of positions in international fora;

Underlining that this results in increasing global impact and an increasing number of Parties to the Budapest Convention on Cybercrime;

Stressing that additional States, including in particular developing countries, should be encouraged to join the Budapest Convention so as to further enhance cooperation against cybercrime;

Considering that the T-CY should maintain:

- two T-CY plenary meetings per year;
- the assessment of implementation by the Parties;
- the preparation of Guidance Notes;
- providing policy advice and assistance aimed at facilitating accession and implementation of the Budapest Convention
- the involvement of observer States and organisations in the meetings of the T-CY
- covering cost of participation of observer States as appropriate
- cost-effective organisation of activities, including coverage of economy class travel only;

Appreciating that minimum financing and staffing is made available for T-CY activities from the Ordinary Budget of the Council of Europe;

Noting that some activities of the T-CY have been supported with funding from the Global Project on Cybercrime (Phase 3) which will end on 31 December 2013;

Recognising that the resourcing of the T-CY has not been aligned with the increased level of activity of and enlarged membership in the T-CY, and that therefore the T-CY is currently under-resourced;

Taking note of Committee of Ministers Resolution CM Res(2013)7 which invites "any contracting Party to a Council of Europe convention which is not a member of the Council of Europe ... to make a financial contribution to the said convention...";

⁵ [http://www.coe.int/t/dghl/cooperation/economiccrime/Source/Cybercrime/TCY/TCY%202013/T-CY\(2013\)19_tcy_funding_v6.pdf](http://www.coe.int/t/dghl/cooperation/economiccrime/Source/Cybercrime/TCY/TCY%202013/T-CY(2013)19_tcy_funding_v6.pdf)

Agreeing that all Parties are encouraged to contribute to the financing of T-CY activities if possible, but that a requirement to finance may deter in particular developing countries from acceding;

T-CY decides:

1. To request the T-CY Bureau to prepare a draft T-CY Statute for consideration at the 10th Plenary (December 2013);
2. To foresee in such a Statute that Ordinary Budget financing for the T-CY be complemented by voluntary contributions;
3. To request the Secretariat to prepare a new project to this effect that is aimed at supporting the T-CY, Octopus conferences and technical assistance for the period 2014 – 2016 to be funded by voluntary contributions;
4. To encourage Parties to make voluntary contributions available to this project in a timely manner;
5. To consider pursuing the option of compulsory contributions by Parties or of an enlarged partial agreement should voluntary funding remain insufficient;
6. To request the Secretariat to inform the T-CY at each Plenary of the status of financing.