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**CONSULTATIVE COMMITTEE OF THE CONVENTION
FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO
AUTOMATIC PROCESSING OF PERSONAL DATA**

(CONVENTION 108)

**Information note on possible further actions regarding the transborder flows
of
personal data**

I. INTRODUCTION

1. The present information note has been prepared by the Secretariat to outline some of the possible actions regarding transborder data flows to be discussed at the 48th plenary meeting of the Consultative Committee of Convention 108. The proposed actions are made to further support the Consultative Committee's efforts in facilitating transborder data flows from the Parties to non-Parties and in a changing global context in general. These actions are aligned with the objectives of Convention 108+ to ensure free flow of data between Parties and to facilitate convergence towards a high set of standards globally. They are furthermore based on the need to try to determine the appropriate level of data protection required for the transfer of data across jurisdictions and to possibly find and propose bridges for an easier interaction with other existing transfer regimes, through Convention 108+ and specific instruments developed based on thereof.
2. Considering the vital role of global data flows for the rapidly developing digital economies and societies, international data transfers underpin modern economies, support innovation and inclusive information societies as well as other objectives held in legitimate interest. Meanwhile, the risk associated with the data flows may have adverse impacts and effects on privacy, data protection and other human rights and fundamental freedoms. That once again underscores the importance of facilitating global data flows without compromising accountability, transparency and the by design application of data protection measures.
3. Given the challenge begotten by the fragmentation caused by different jurisdictions and national frameworks, future efforts are required to be centred around fostering legal and regulatory interactions, with possible aim for convergence. To overcome current compliance burden and challenges for international data transfers, the development of additional transfer instruments and tools based on the adopted CoE Model Contractual Clauses (MCC), including supporting multilateral dialogues and international cooperation, will contribute to promoting data flows with trust and confidence, hence advancing the very objectives of Convention 108+.
4. The information note is designed to propose for reflection some of the actions on data transfers the Committee of Convention 108 could undertake in the future, building on the status of the Committee of Convention 108 as a network of highly qualified data protection experts from 3-4 continents that is also supported by a pool of independent experts that overall have all the potentials to propose international standards, legal instruments, pragmatic solutions. Based on the current success of adopted CoE Model Contractual Clauses (MCC), the Consultative Committee is proposed to consider the following initiatives (see II. *Annex: Proposed Initiatives*), yet not limited to forthcoming outputs, for furthering its workforce on transborder data flows.

II. ANNEX: PROPOSED INITIATIVES

INITIATIVE	SUB-ACTIVITY	DESCRIPTION OF OUTPUTS
<p>A. Assisting and supporting the recognition and approval of the CoE MCC by the competent authorities in the Parties (DPAs) and in and by strategic partner organisations, institutions. Promote and support the use of CoE MCC as approved standardised contractual clause under the interested domestic legal frameworks.</p>	<p>A.1 Keeping awareness of the DPAs in the parties of Convention 108/Convention 108+, through their engagement in multilateral dialogues, showcasing national experience and domestic processes, and capacity-building initiatives.</p>	<p>The initiative proposes to reduce any fragmentations and promote legal harmonisation by aligning cross-border data transfers with high level data protection standards and promoting the approval of the developed CoE MCC to ensure an appropriate level of protection guaranteed by the Convention 108+. The process may be supported by assisting the formal recognition or approval of the CoE MCC as a readily available instrument/legal basis for transborder data flows in all Parties. Additionally, further elucidations in the form of supplementary materials (e.g. explanatory report, guideline and relevant strategy plan, etc) would facilitate a quicker and wider approval of the MCC by the competent authorities in the Parties. The initiative could also encompass developing interpretative guide/normative document on benchmarks for the main criteria regarding the appropriate level of protection, with a view also to the recognition and approval of the use of CoE MCC in/by a non-Party State.</p>
	<p>A.2 Developing an explanatory report, guideline and relevant strategy plan for transforming MCC into an easily transposable, operational instrument to ensure its accessibility and wider use.</p>	

<p>B. As part of the upcoming Work Programme (2026-2029) of the Committee, the development of a practical guide and interpretations of provisions of article 14 of the Convention 108+ on the transborder data flows.</p>	<p>B.1 Creation of an inventory of the data transfer tools based on the Art. 14 of the Convention 108+ and making them accessible via the webpage.</p> <p>B.2 Development relevant opinions, guidelines, recommendations and explanatory notes to support operational functionality of the available transfer tools.</p>	<p>Art. 14 of the Convention 108+ provides the legal basis for transborder data flows along with the relevant transfer tools and conditions under which the personal data may be transferred. The main transfer tools and derogations for specific circumstances under the Art. 14 are:</p> <ul style="list-style-type: none"> • Acknowledgment of the domestic legal framework of the importing country as guaranteeing an appropriate level of protection (Art. 14(3)(a)); • <i>Ad Hoc</i> or Approved Standardised Safeguards (Art. 14(3)(b)); • Derogations for Specific Situations (Art. 14(4)). <p>The initiative aims at further studying the available main transfer tools and developing guidance on assessing appropriate levels of protection in country which is not Party to Convention 108+. It can furthermore encompass developing model templates for <i>ad hoc</i> safeguards (having approved standard contractual clauses already available); It can furthermore aim at drafting recommendations and opinions on interpretation/application and case-by-case assessment of the derogations provided in Art. 14; drafting recommendations and interpretative opinions in regard to additional guarantees provided by Art. 14(5), (6) as a baseline for appropriate protection.</p>
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<p>C. Development of normative documents and embarking on strategic discussion on additional instruments supporting transborder data flows.</p>	<p>C.1 Engaging in global, regional initiatives and expert discussions by appointed rapporteurs to align cross-border data transfer frameworks (such as: OECD, GPA, RIPD, NADPA, CBPR, ASEAN etc.) and increase the visibility of the work of the Consultative Committee/Secretariat in relation to initiatives that align with the principle of transborder data flows with trust.</p>	<p>The initiative supports interpretation of available transfer instruments under the Convention 108+. Building on the functions of the Consultative Committee (Art. 23(g)), the development of models of standardised safeguards in regard to trusted, lawful and interoperable transborder data flows, will further address the regulatory gaps across the different jurisdictions, the challenges related to data localization and ensure continuity of data protection consistent to the Convention 108+.</p>
	<p>C.2 Developing guidance on additional transfer tools and instruments, such as:</p> <ul style="list-style-type: none"> • Model BCRs, with an additional/separate chapter for SMEs; • Universal and generic (one fits all) MCC based on the existing CoE MCC; • Sector-specific guidance on transborder data flows; • Sectoral codes of conducts and • Certification mechanisms for data transfers; • Methodology for transborder data flows impact assessment • Developing legal criteria for mutual recognition of transfer tools (such as MCC/SCC) 	