**一《网络犯罪公约》（Convention on Cybercrime）**

**1. 公约背景与目标 (Background and Objectives)**

* **英文**：The Convention on Cybercrime, also known as the Budapest Convention, aims to harmonize national laws, improve investigative techniques, and increase international cooperation to combat cybercrime.
* **中文**：《网络犯罪公约》（又称《布达佩斯公约》）旨在协调各国法律，改进调查技术，增强国际合作，以应对网络犯罪。

**2. 主要条文 (Key Articles)**

**(1) Substantive Law (实体法)**

* **Article 2: Illegal Access（非法访问）**
  + **英文**：Each Party shall adopt measures to establish as a criminal offense the intentional access to a computer system without right.
  + **中文**：各缔约方应采取措施，将未经授权故意访问计算机系统的行为定为犯罪。
* **Article 3: Illegal Interception（非法拦截）**
  + **英文**：The interception of non-public transmissions of computer data to, from, or within a computer system without right shall be criminalized.
  + **中文**：未经授权拦截计算机系统中、之间或向外的非公开数据传输应被认定为犯罪。
* **Article 4: Data Interference（数据干扰）**
  + **英文**：Intentionally damaging, deleting, deteriorating, altering, or suppressing computer data without right shall constitute a criminal offense.
  + **中文**：故意损坏、删除、恶化、更改或压制计算机数据的未经授权行为应被定为犯罪。
* **Article 5: System Interference（系统干扰）**
  + **英文**：Serious hindering of the functioning of a computer system by inputting, transmitting, damaging, deleting, deteriorating, altering, or suppressing computer data without right shall be criminalized.
  + **中文**：未经授权通过输入、传输、损坏、删除、恶化、更改或压制计算机数据，严重妨碍计算机系统运行的行为应被定为犯罪。
* **Article 6: Misuse of Devices（设备滥用）**
  + **英文**：The production, sale, procurement for use, import, distribution, or possession of devices designed to commit offenses under the Convention shall be prohibited.
  + **中文**：生产、销售、为使用而采购、进口、分发或持有用于实施本公约所列犯罪的设备应被禁止。

**(2) Procedural Law (程序法)**

* **Article 16: Expedited Preservation of Stored Computer Data（加速保存存储的计算机数据）**
  + **英文**：Parties shall adopt measures to preserve specified computer data quickly to prevent its modification or deletion.
  + **中文**：缔约方应采取措施，加速保存特定计算机数据，以防止其被更改或删除。
* **Article 19: Search and Seizure of Stored Computer Data（搜索和扣押存储的计算机数据）**
  + **英文**：Competent authorities must be able to search and seize computer data stored in a system or medium.
  + **中文**：主管机构应能够对计算机系统或介质中存储的计算机数据进行搜索和扣押。
* **Article 20: Real-Time Collection of Traffic Data（实时收集流量数据）**
  + **英文**：Procedures must be in place to collect traffic data in real time.
  + **中文**：应制定程序，能够实时收集流量数据。
* **Article 21: Interception of Content Data（拦截内容数据）**
  + **英文**：States must ensure procedures for real-time interception of content data related to specific communications.
  + **中文**：各国应确保针对特定通信的内容数据实时拦截程序。

**(3) Mutual Assistance (相互协助)**

* **Article 29: Expedited Preservation of Stored Data for Mutual Assistance（为相互协助加速保存存储数据）**
  + **英文**：Stored data shall be preserved quickly in preparation for international assistance.
  + **中文**：存储数据应加速保存，为国际协助做好准备。
* **Article 30: Expedited Disclosure of Preserved Traffic Data（快速披露保存的流量数据）**
  + **英文**：Traffic data preserved under Article 29 shall be disclosed quickly to requesting authorities.
  + **中文**：根据第29条保存的流量数据应快速披露给请求方机构。
* **Article 32: Trans-border Access to Stored Data（跨境访问存储数据）**
  + **英文**：States may access stored data in another jurisdiction with the consent of the user or where the data is publicly available.
  + **中文**：各国可在获得用户同意或数据公开的情况下访问他国司法管辖区内的存储数据。
* **Article 35: 24/7 Network（全天候网络）**
  + **英文**：A 24/7 contact point network shall be established to facilitate international cooperation.
  + **中文**：应建立全天候联系点网络，以促进国际合作。

**3. 挑战与国际合作 (Challenges and International Cooperation)**

* **英文**：Cybercrime investigations face challenges like jurisdictional conflicts, sovereignty issues, and the volatility of digital evidence.
* **中文**：网络犯罪调查面临诸如司法管辖冲突、主权问题以及数字证据易失性等挑战。

**一、实体法（Substantive Law）**

**1. Article 2: Illegal Access（非法访问）**

* **英文条文**：Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offenses under its domestic law the intentional access to the whole or any part of a computer system without right.
* **中文解释**：各缔约方应采取必要的立法或其他措施，将未经授权故意访问计算机系统全部或部分的行为视为犯罪。
* **实际意义**：这一条款旨在防止未经授权的入侵行为，例如黑客通过破解密码访问系统。

**2. Article 3: Illegal Interception（非法拦截）**

* **英文条文**：The interception, without right, of non-public transmissions of computer data to, from or within a computer system shall be criminalized.
* **中文解释**：未经授权拦截计算机系统内、之间或向外传输的非公开计算机数据应被视为犯罪。
* **实际意义**：保护数据的隐私性，例如防止恶意软件拦截用户的银行或电子邮件数据。

**3. Article 4: Data Interference（数据干扰）**

* **英文条文**：Intentionally damaging, deleting, deteriorating, altering, or suppressing computer data without right shall constitute a criminal offense.
* **中文解释**：故意损坏、删除、恶化、更改或压制计算机数据的未经授权行为应被视为犯罪。
* **实际意义**：此条款主要针对破坏数据的行为，例如勒索软件攻击或病毒传播。

**4. Article 5: System Interference（系统干扰）**

* **英文条文**：Serious hindering of the functioning of a computer system, by inputting, transmitting, damaging, deleting, or suppressing computer data without right, shall be criminalized.
* **中文解释**：通过输入、传输、损坏、删除或压制计算机数据，严重妨碍计算机系统运行的行为应被视为犯罪。
* **实际意义**：此条款用于打击分布式拒绝服务（DDoS）攻击等行为。

**5. Article 6: Misuse of Devices（设备滥用）**

* **英文条文**：The production, sale, procurement for use, import, distribution, or possession of devices designed or adapted for the purpose of committing any of the offenses established in this Convention shall be criminalized.
* **中文解释**：生产、销售、采购、进口、分发或持有用于实施本公约规定犯罪的设备应被视为犯罪。
* **实际意义**：规范工具的合法使用，防止犯罪分子使用恶意软件开发工具。

**二、程序法（Procedural Law）**

**1. Article 16: Expedited Preservation of Stored Computer Data（加速保存存储的计算机数据）**

* **英文条文**：Each Party shall adopt such measures as may be necessary to enable its competent authorities to order or obtain the expedited preservation of specified computer data.
* **中文解释**：各缔约方应采取必要措施，使其主管机关能够下令或快速保存特定的计算机数据。
* **实际意义**：避免数据被迅速删除，有助于调查网络犯罪。

**2. Article 19: Search and Seizure of Stored Computer Data（搜索和扣押存储的计算机数据）**

* **英文条文**：Competent authorities shall have the ability to search or similarly access, seize, or secure stored computer data.
* **中文解释**：主管机构应具备搜索、访问、扣押或确保计算机存储数据的能力。
* **实际意义**：为执法机构提供法律依据以获取证据。

**3. Article 20: Real-Time Collection of Traffic Data（实时收集流量数据）**

* **英文条文**：Each Party shall ensure that its legal framework permits the real-time collection of traffic data associated with specified communications.
* **中文解释**：各缔约方应确保其法律框架允许实时收集与特定通信相关的流量数据。
* **实际意义**：追踪网络活动，定位犯罪分子。

**4. Article 21: Interception of Content Data（拦截内容数据）**

* **英文条文**：Parties shall adopt measures to enable the real-time collection or recording of content data of specified communications.
* **中文解释**：缔约方应采取措施，能够实时收集或记录特定通信的内容数据。
* **实际意义**：用于预防和调查严重的网络犯罪，例如恐怖主义活动。

**三、国际合作（International Cooperation）**

**1. Article 29: Expedited Preservation for Mutual Assistance（为相互协助加速保存数据）**

* **英文条文**：Stored computer data necessary for mutual assistance purposes shall be preserved expeditiously.
* **中文解释**：为相互协助目的，必要的存储计算机数据应快速保存。
* **实际意义**：确保在国际合作中，关键数据不会因延误而丢失。

**2. Article 32: Trans-border Access to Stored Data（跨境访问存储数据）**

* **英文条文**：Trans-border access to stored computer data may be permitted with user consent or where publicly available.
* **中文解释**：经用户同意或在数据公开的情况下，可以进行跨境访问存储的计算机数据。
* **实际意义**：为跨国调查提供法律依据，但同时强调用户隐私和数据公开的重要性。

**3. Article 35: 24/7 Network（全天候网络）**

* **英文条文**：A network of 24/7 contact points shall be established to facilitate international cooperation.
* **中文解释**：应建立全天候联系点网络，以促进国际合作。
* **实际意义**：确保各国能够在紧急情况下迅速联系以协调行动。

**总结（Conclusion）**

《网络犯罪公约》为各国提供了一个共同的法律框架，有助于协调打击网络犯罪的努力。公约不仅涵盖实体犯罪的定义，还通过程序性法律规定，确保各国执法机关具备适当的权力来调查和起诉网络犯罪。同时，通过国际合作条款，为跨境执法提供了支持。

如果需要进一步的分析或具体条款的应用案例，请继续告知！