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ROOM B

FIRST MEETING OF COMMITTEE 5

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>> CHAIRMAN: Welcome to this first meeting of Committee 5, which I have the honor of leading for this Plenipotentiary. Some of you may remember that in 2010 I had this difficult task. So, unfortunately, you haven't been given a new face to lead the work of Committee 5.

But, on the other hand, there is a certain amount of experience which I've built up working with the Secretariat, to work in an effective way, so that we should be able to keep to the timing which has been allotted us for our work.

I wanted to offer a couple of practical pieces of information. To the right of your microphones there is a button at the bottom. Now, when you want to take the floor, you press that button and your microphone will turn green, which means that you're being recorded.

After that, when you're given the floor, the green light will become a red light and you can begin speaking. So that is the practical aspect.

I mean to begin on time. I'm Swiss, and you will undoubtedly recall that the Swiss are punctual. So I'll do my best in that regard.

I expect to have a break halfway through, when we have a half day meeting. I won't go through the entire schedule, but just to give you an idea. Today we will deal mainly with the Resolution on a stable Constitution. Tomorrow we will have flight tracking. And the day after, Friday, we will have ITR. These are the main topics then which we will be dealing with this week, with your help of course.

In any case, I wish you all as successful a meeting as possible, and I hope that we will work with a spirit of cooperation to find solutions together. And I, too, will do my best to help you to achieve that.

You have the agenda before you. This is in document ADM/11. And this is the agenda which we will be following today. I'd like to ask now then whether there are any comments on this agenda. Seeing none -- Iran, please.

>> ISLAMIC REPUBLIC OF IRAN: Good afternoon, Mr. Chairman. Good afternoon, ladies and gentlemen. Yes, we found you quite competent that we entrust you again, once again, with this difficult task of Committee 5. You have done a good job and that is the punishment. Good job. Again, you have a difficult task. This time may be a little bit more difficult than before. Who knows.

Mr. Chairman, perhaps if you and distinguished colleagues agree, I would propose one very small and minor amendment to your agenda. And perhaps before going to the presentations of the proposals, perhaps if you have some background on the Constitution and Convention and the Resolution 163, which may not take more than three to five minutes, but it would be useful that we refresh our minds where we are.

Thank you.

>> CHAIRMAN: Thank you, Mr. Arasteh, for that proposal. I don't see any problem there. In fact, that would allow us to get everyone in the zone, as it were.

So with that comment in mind I would suggest that we adopt the agenda. It's so decided.

Before we delve into the substantive matters then, under item 3 we have terms of reference and working methods. This is document DT/8, which I now ask you to take out. DT/8, terms of reference. I don't think this will attract too many comments. This is a very standard set of terms of reference. Can we adopt the terms of reference? I see no request from the floor, so we adopt the terms of reference.

Thank you.

The next item on our agenda is texts of proposals to be examined by Committee 5. And this is DT/5. Document DT/5. This document contains the various texts which we will examine as part of this Committee's work. So you can see the various chapters which we have to deal with one by one.

And there are references to the proposals which are being made by regions or countries. There is nothing unusual about this. This is our usual procedure.

Do you have any comments about DT/5? Seeing none, we adopt DT/5. Thank you.

We now move on to item 5. This is the core and heart of our discussion today. Stable Constitution/Resolution 163. As you can see, many documents are referenced to under this item. Many Delegations have submitted proposals, which we will now examine.

Prior to that, however, following the suggestion from our colleague from Iran, we will sketch out the background to this so that everyone's abreast of what we're dealing with. So, Mr. Arasteh, you suggested that we have this background explained. May I give you the floor to do this, given that you've worked a great deal in this field and given that you're in the relevant bodies? Mr. Arasteh, can I give you the floor?

>> ISLAMIC REPUBLIC OF IRAN: Thank you, Mr. Chairman.

Yes, perhaps that would be useful for all of us to refresh our mind what we are discussing.

Mr. Chairman, immediately after the Second World War, the United States administration asked the ITU to convene a conference for establishment of an International Telecommunication Convention. That conference took place in Atlantic City from the 15th of May to the 2nd of October; more than five and a half months.

Then the Convention, International Telecommunication Convention of ITU, was established. We had that Convention up to Nairobi, 1982. Before that and during that conference, distinguished colleagues were discussing that we need to have some -- inject some degree of stability to that.

A Resolution was adopted by the Conference, and a group was established between 1982 to 1989, this Plenipotentiary Conference, to separate some of the elements of that Convention which has a more stable nature, fundamental Constitutional from other elements which are operational and functional, and that group finalized the issue and provided two documents. One document consisting or containing the more stable provisions, called the Constitution, and the other one a Convention.

Plenipotentiary 1989 in Nice has established that, but the final act of that conference did not come into force because of the criteria for bringing it into operation or into force. However, the Plenipotentiary -- additional Plenipotentiary Conference in 1992, in Geneva, finalized that issue and we had the Constitution and Convention.

After that, it took a lot of time that the new Constitution and Convention come into force. In fact, there was a Resolution to extend the time to allow membership to ratify that. And from 1998, the first discussion started that still we need to inject more stability to the Constitution. And the reason of that was the ratification of modifications was and still cumbersome to many Member States, in particular those Member States that the languages are not the six official languages of the ITU.

From 2008 the discussion was started: Would it be possible to inject that stability? And after the discussion in 2009, 2010, it was more or less a consensus among the Member States that we need to bring the matter to the attention of the Plenipotentiary 2010 Guadalajara.

To do that, Mr. Chairman, the Asia Pacific community took the initiatives and prepared a draft Resolution with two possibilities how to proceed with the matter. And the Resolution was slightly amended, the AP Resolution, at the Plenipotentiary Guadalajara. And with one of the options, the Resolution 163 was adopted. And based on that, a Council Working Group was established to take on board the implementation of that Resolution.

Hard and complex work. We use this opportunity to express our sincere appreciation to the Chairman of that Council Working Group on to the Secretariat and to the ITU in particular, in particular ITU legal unit, that put a considerable amount of time assisting the membership to go through that exercise.

The aim of the Resolution 163 was to resolve one single issue, and that was problem of ratifications. The group, after five meetings, intensive work, prepared a substantial report, submitted it to the Council, and that report in the Council was subject for some comments, which you'll see in the documentation before you.

Now, the issue comes back to the Plenipotentiary 2014, to see whether or not we are successful to implement the Resolution 163 with a view to having a stable Constitution.

Now, we have had documents of the Council Working Group, through the Council, come to the Plenipotentiary before you, plus the views of the councillors who submitted it to the Plenipotentiary conference.

Mr. Chairman, I don't go into any further discussion at this stage. I leave it to the presentation of documents. But that was a little bit of background of where we are and what we have to do from now. So I don't get to any further explanation on this situation until you give me the floor later on to present the proposals from APT.

Thank you.

>> CHAIRMAN: Thank you to the Iranian delegate for that presentation. I couldn't have done better myself. I think that brings us up to date on the historical background to this work on the stability of the Constitution and problems relating to ratification.

Perhaps I might now propose that we hear a brief report from the Council Working Group, which has met and finalized its work. Ms. Salma Jalife is not here, the Chair, is not here with us. But we have a colleague, Mr. Omo, from Kenya, and I think he could give us some information about this document. Might I therefore give the floor to Kenya.

>> KENYA: Thank you very much, Mr. Chairman.

And I'm very sorry, indeed, that I walked in just as you were about to introduce the subject of the adopting the terms of reference for this Committee, Chairman, not very much after what Mr. Arasteh said. Indeed, the Plenipotentiary in Guadalajara did recognize that there was a need to be met, and for that reason passed the Resolution 163. Now, the Council Working Group as you will see in the document from Council did meet and report, made its report to the Council, including the last one in the year 2013. My take then would be that the document is being considered by the Plenipotentiaries that are here, and that the focus would be not so much on what the Council Working Group did, but rather the presentations, the proposals from various regions or countries that have been made pursuant of course to what the 2010 Plenipotentiaries directed Council to do. That is to have that report prepared and forwarded to Member States to assist them in their preparations on that very subject for this Plenipotentiary.

So from the Working Group, Chair, my plea would be on behalf of the Chair, who is not here, that the Plenipotentiaries present here have indeed submitted their proposals pursuant to the work that the Council Working Group did, and that the focus then would be so much on the proposals that have been submitted by various Plenipotentiaries or regions at this conference to be considered at this Committee.

Thank you very much.

>> CHAIR: Thank you, Mr. Omo, for that presentation.

Thank you for presenting the Council working group's report. The Working Group has worked hard and has driven to find solutions, and we know that that wasn't an easy task.

I suggest now that we consider the various proposals which are on the table from various countries and regions. These are proposals regarding the outcomes of the Council Working Group's work. Following that, we will open the floor for discussion.

I don't think we need to go into all the details. You've had the opportunity to read the texts. But each country having made contributions can explain their proposals. There shouldn't be any need for lengthy discussions following that.

With your permission, I'll begin with my list, which you also have on your agenda.

There is a series of proposals coming from the United States. And so I'd like to ask the United States briefly to explain its proposals. These begin with 27R1/1. And end with  27R1-A1/3. I'll give the floor to the United States to explain briefly what these proposals consist of.

>> UNITED STATES OF AMERICA: Thank you, Chairman. And I would like to extend a warm good afternoon to all colleagues in the room. And to congratulate you on your Chairmanship of this meeting. We very much look forward to working with everybody here to a smooth and successful conclusion to our work.

With respect to the United States proposals on the stable Constitution that you just listed, these are proposals for no change to various parts of the Constitution and the Convention. To list them, the United States proposes no change to the preamble of the Constitution, Article 1 of the Constitution, Article 4 of the Constitution, Article 5 in the annex to the Constitution and the annex to the Convention, Article 7 of the Constitution, and Article 1 of the Convention.

I will also note that with respect to the proposals for Article 1, Article 5, in and the annexes, the United States supports the IAPs on those issues and so we don't feel the need to address them specifically now.

With respect to our proposal on Article 1 of the Constitution, the United States proposes no change because we believe the mission, scope, and the general goals and purposes of the Union are set forth with clarity and completeness in that Article.

At the same time, that provision is flexible enough to allow for rapid technological change and the evolution of new business models and consumer-oriented services.

With respect to the preamble, we note in particular that the preamble recognizes the sovereign right of each country to regulate its own Telecommunication Sector, and this is a principle that the United States strongly supports.

With respect to Article 5 of the Constitution, the United States believes that the current definitions in the Constitution and Convention are flexible. They are technologically neutral and maintaining those definitions will help ensure the fundamental stability of the basic instruments.

With respect to Article 8 of the Constitution, dealing with the Plenipotentiary Conference, the United States believes that the structure of the Union as outlined in that Article and Article 7 is sound and those provisions are sufficiently flexible to respond to the needs of the Union's members.

With respect to Article 1 of the Convention, the United States believes that it provides clear guidance as to the purpose and responsibility of the Plenipotentiary Conference and we therefore support no change to this provision as well.

Thank you, Mr. Chairman.

>> CHAIRMAN: Thank you, United States, for that presentation.

We now move on to the next presentation. This is a proposal from Brazil and Canada along with other States from the Americas. This is document 31/1. Who will take the floor on this? Brazil perhaps? Or another country? Another signatory of this proposal. Brazil? Would you take the floor on this, or Canada?

Canada.

>> CANADA: Thank you, Mr. Chairman. Good afternoon. And if you would give us a couple of minutes, I apologize, but we will certainly introduce this document. You may follow-up with the next document. Again, with my apologies.

>> CHAIRMAN: We excuse you. We are only just starting our work so we're still getting into the swing of things.

The next document is an IAP document. 34. So InterAmerican Proposal. I don't know who will be presenting this document, either. Someone from the Americas. Is there a coordinator for this? Brazil. Brazil, go ahead, please.

>> BRAZIL: Thank you, Mr. Chairman.

And just a moment, please. It's been quite difficult here to open so many documents at the same time. Sorry, Mr. Chairman, I'm waiting for the network to open the document.

>> CHAIRMAN: Thank you. The Chairman is still using old methods, namely, hard copies, but sometimes that's quicker.

Perhaps we can go back to Canada while the Brazilian colleague is opening his document. Is Canada now ready to present document 31/1? Canada.

>> CANADA: Thank you, Chairman, and I am almost tempted to take your advice to go to paper copies, but again... It is right here.

This is a contribution from Brazil, Canada, Colombia and the United States. It's document 31, and it's related to the stabilization of the basic instruments of the Union.

The proposal, Mr. Chairman, basically calls for a no change on chapter 1 of the basic provisions of the Union, as well as no change in the instruments of the Union, which would be Article 4 of the Constitution. That is the extent of the substantive part of the Canadian -- of the multicountry contribution.

Mr. Chairman, we believe that based on the experiences we had during the last 18 or more months as it relates to the the very vision of this issue of the stability of the legal instrument, it is imperative in the view of those countries that have signed to this proposal to maintain the stability of the legal instruments. And to that extent, no change on Article 4.

Thank you.

>> CHAIRMAN: Thank you, Canada.

We take note of that position.

I'll come back now to Brazil. Is Brazil now ready?

>> BRAZIL: Thank you, Mr. Chairman. Actually, as you can see, the proposals are quite the same. Just because originally it was presented by some countries, including Brazil, Canada, United States and Colombia, and then it was transformed into an IAP, an InterAmerican Proposal. But they are basically the same. And IAP is saying that we need no change on Article 4 of the Constitution and Convention.

Thank you, Mr. Chairman.

>> CHAIRMAN: Thank you. Thank you for presenting that.

Might I now move on then to the next region, or did you want to refer to A1/40 and A1/41. Those are also proposals from IAP.

Brazil. Are you ready?

>> BRAZIL: Sorry, Mr. Chairman. It's taking some time to find the recommendation. I'd like to come back when I can present the document correctly.

Thank you.

>> CHAIRMAN: Very well. I'll come back to you then when you've managed to download the documents.

The next group of remarks about the stability of the Constitution issue are to be found in document 67. And these proposals are from the ACP. There are a number of proposals from this group, 67A2/1 is the first and the last in the list from this group is 67A1/6.

Which country will be presenting these proposals from the ACP? Iran? Mr. Arasteh.

>> ISLAMIC REPUBLIC OF IRAN: Thank you, Mr. Chairman. Yes, I'm presenting the document on behalf of Asia Pacific. It is not the views of Iran, but it's the views of Asia Pacific Telecommunication. So all the views that I make is in the name of APT.

I first take you to addendum 1, document 67, which directly relates to the stable Constitution. In that document, Mr. Chairman, we have given first some background of the result of the Council Working Group on the stable Constitution, which is in fact mirrored from the document 51 from the group -- excuse me. Document 52 from the group.

The question is after five meetings and extensive work, the group came up with a report which raised several questions of substance and was reporting to the Council, and Council did not make any decision on that apart from comment from councilors, which are in another document, document 51. Then everything was sent to the Plenipotentiary, to this meeting.

Ten basic questions have been raised. Perhaps at this stage, Mr. Chairman, I don't go through the detail of that, because I think that you don't want that detail at this stage. You want the general presentation. The general presentations of the APT with respect to the stable Constitution is no change to the structure, no change to the hierarchy of the Constitution and Convention, no change to any definitions in the annex to the Constitution and Convention, and suppression of Resolution 163 totally. And no proposals to discuss the issue of a stable Constitution between this Plenipotentiary Conference and next Plenipotentiary Conference.

This is one part of the proposal of APT. However, APT went a little bit further and in the addendum 2 of the APT, in view of the fact that we are faced at this conference with the very basic questions of what to do with the stable Constitution, we don't know what will be the decision of the Conference, APT went a little bit further and proposed that no change to any provision of the Constitution and no change to any provision of the Convention at this conference. However, if there are proposals for changes to the Constitution and Convention, APT was of the view that perhaps that could be examined with the view that we reflect the issue in a different manner, such as having Resolutions of the Plenipotentiary Conference.

However, as a matter of safeguard, if really we could not take on board the suggestions or proposals for making modifications or amendments to specific provisions of the Constitution or Convention in the Resolutions or in decisions, and we are left with no other options, then we could consider the modification of specific provisions of the convention and Convention, but that is the last resort. We prefer not to do that.

I'm trying to reflect those changes which were proposed in another matter which does not require ratifications and does not add any difficulty to the existing difficulty that we have. And this practice, Chairman, has already been used. There have been cases that we treated the matter in a Resolution or in a decision. And even sometimes there was a practice that we put an issue in the minutes of the plenary of the Plenipotentiary Conference if there was some point of clarifications.

So this is the issue that a little bit going further than the proposals that you have heard up to now.

In summary, no change to any provisions in the Constitution and Convention unless the proposed modifications are absolutely necessary and could not be achieved through other possible means.

And I thank you very much for that.

>> CHAIRMAN: Thank you to the Delegation of Iran speaking on behalf of the Asia Pacific region.

Perhaps it's time to give the floor back to Brazil. Brazil, I give you the floor.

>> BRAZIL: This presentation will be made by the delegate from the United States. Thank you.

>> CHAIRMAN: Excellent. In that case, I give the floor to the delegate from the United States.

>> UNITED STATES OF AMERICA: Thank you, Mr. Chairman. Well, I'll introduce the IAP 40 and 41 together.

Since we're doing brief introductions in your group, basically IAP/34A1/40 advocates or says that CITEL believes that there should be no change to Article 5, the definitions in the Constitution. And IAP/34A1/41 says no changes to the definition in the Convention as contained in the annex.

We believe that the definitions that are there both in the Convention and in the Constitution are flexible and technology neutral. We think maintaining them will help ensure the fundamental stability of the basic instruments of the Union and that the current definitions allow the Union to respond to the rapidly changing telecommunications environment, and also to maximize benefits of telecommunications to ITU members.

Moreover, some -- probably many administrations have incorporated these definitions into national laws and regulations, and a revision to them would require a change to those national laws and regulations.

So to sum up, we think the current definitions provide Member States with the flexibility to adopt national telecom policies and regulations that support harmonious development of International telecommunication services.

Thank you.

>> CHAIRMAN: Thank you for this presentation of document 34R1-A1/40 and 41.

I suggest that we continue with our list now. And the next group of proposals is from Europe. I would ask the representative of Europe to speak and it will be Switzerland.

Switzerland, you have the floor.

>> SWITZERLAND: Thank you, sir.

May I start, sir, by congratulating you on being designated to preside over this Committee. As you can imagine, the Swiss Delegation was full of joy. It means that we have more work to do ourselves here in the Delegation. But I'd also like to congratulate the Vice Chair of this Committee, too.

Now, to get down to the subject on the agenda that we're treating at the moment, the issue of a stable Constitution, we would like to start by thanking the Chair of the Working Group and all those who assisted in the work. There was a huge amount of work involved. I think there were at least four meetings, if I'm right. So I think the people who participated really are worthy of our gratitude for all the hard work they put into it.

We studied the documents provided and came to the conclusion that there was no need for any change to the basic instruments of the Union. Then we have on the one hand the proposal that there should be no changes to the basic provisions of the Constitution, but following on from that Europe would propose that we delete Resolution 163.

Thank you, sir.

>> CHAIRMAN: Thank you for presenting the European viewpoint.

And we will move on to the next document, which is 69A1/15. That is a proposal from the African region. So I would ask a representative of the Africa region to present this change. Kenya, you have the floor.

>> KENYA: Thank you very much, once again, Chair.

It just occurs to me that when I spoke the first time I didn't congratulate you and your Vice Chairs for the responsibilities that you have been given and which you have accepted. Please accept my apologies for that. I came in late and I was in a rush to respond to the call that you yourself had made of me.

And, secondly, I want to thank the Delegation of the Swiss for the kind words that they have had indeed for the Council Working Group, for the work that has gone into the output of that very group. I'm sure if the Chair was around she would have expressed those same words.

Chair, back to the subject in question, I'll speak generally in the sense of introducing the essence of the African Group proposal. And then hopefully at some point later on we will come back to the specifics of it. And as I said, generally, the African Group's proposal is informed by the fact that the PP-10 recognized the need, a need for the ITU community, and provided for a way of satisfying that need via Resolution 163.

Indeed, that Working Group that was to be established by Council was given specific terms of reference. The Council and indeed its group has done its work, but in so doing recognized a number of issues that were not within the mandate of that group. Now, those are issues that we cannot bury under the sun. They will continue unless a solution is found to haunt this community. They are issues for which a solution needs to be found.

And so the essence of the African Group's proposal, Chair, is that this consideration to suppress Resolution 163, but do recognize in a new Resolution that some good work has been done, and that new questions have emerged that were apparently not clear to the PP, most likely not clear to the PP in the year 2010. And for that reason, the proposal is to suppress Resolution 163 and in its place recognize the work that has been done and then consider another Resolution that would then ensure that that work is continued, and that whatever group is -- comes out of this conference to continue that work would make proposals -- and I need to emphasize that -- "proposals" to be considered by a Plenipotentiary Conference.

So, Chair, thank you very much. That is really the breadth of the contribution and proposal from the African Group.

>> CHAIRMAN: Thank you to the representative of Kenya for presenting the African proposal.

Now the next proposal is from Japan. The document is 77/1. Would you introduce the document.

>> JAPAN: Japan appreciates the efforts by the Working Group, and Japan believes that it is our responsibility to continue efforts towards legal stability of the Constitution and the Convention. If the project defined by Resolution 163 is not enough to achieve the legal stability, the Member States should make efforts with an alternative approach.

In this regard Japan proposes that Resolution 163 and its annex to be revised so as to, first, adopt an alternative approach to solve the difficulties with Resolution 163.

Second, extend the mandate of the Council Working Group to enable to propose drafts of the Constitution and of the Convention, which includes an introduction of simplified procedures of amendment, and particularly on provisions on technical, procedural, or other things.

Third, send a draft to the 2018 Plenipotentiary Conference for consideration and necessary actions as appropriate.

>> CHAIRMAN: I thank the delegate of Japan for that presentation of this document.

In the list we have a United States document 27R1/8. Would the United States present this document. Thank you.

>> UNITED STATES OF AMERICA: Thank you, Mr. Chairman. I can be very brief here. The United States supports the InterAmerican Proposal on suppression of Resolution 163, and so we don't need to take the time of the room in explaining our proposal.

Thank you.

>> CHAIRMAN: I thank the United States for being so brief as you spoke.

Next we have 34R1-A1/29. I would request that the region -- perhaps would Brazil be representing the region in presenting this document, which is an Interamerican -- no?

Canada, Canada, you have the floor.

>> CANADA: Thank you very much, sir.

This is from the Americas. Following on from the proposal from the United States, we believe that the rationale behind this InterAmerican Proposal is that the Council's Working Group on the stable Constitution has fulfilled its mandate. And by that we mean that despite the incredible efforts undertaken by the Council's Working Group, and by Chairman, Madam Salma Jalife from Mexico, we see that the outcome has been far more complicated and complex than the desired outcome established at the beginning of the creation of this Council's Working Group. Consequently, Mr. Chairman, we believe that it is necessary to suppress this Resolution and look for far more feasible and comprehensive mechanisms to efficiently deal with the stability of the legal instruments.

Thank you.

>> CHAIRMAN: I thank Canada speaking on behalf of the CITEL region.

I have another document on the list, which ACP/67A1/4. Will this be Iran speaking on behalf of this document?

>> ISLAMIC REPUBLIC OF IRAN: Thank you. I think in the first presentation I also presented this one. So perhaps we don't need to redo it again.

Thank you.

>> CHAIRMAN: Excellent. That does save time indeed.

Now the next is 69A1/10. This has already been presented by Kenya on behalf of the Africa region. So I would be so bold as to move on to the next document, which is 79A4/6, which is from the Arab States. So I would ask the United Arab Emirates to present this document. You have the floor.

>> UNITED ARAB EMIRATES: Thank you, sir. Good afternoon to everybody. Mr. Chairman may I start by congratulating you on being elected to lead the work of this Committee, and also congratulate all the Vice Chairs of this very important Committee, because of the importance of the subject matter it discusses and the very heavy agenda which we have. And I would wish you all success in your work leading this Committee, all success to you and to your Vice Chairs.

Now, as far as the joint Arab States' proposal goes, the community of Arab States would like to thank the Chair of the Council group, Working Group, on the stable Constitution and all the staff who made the work of this group so much more effective through their participation. The Arab States consider that this Working Group completed its mission. But since the tasks that were set are limited, it wasn't able to provide the amendments necessary for the different texts in response to all the procedural and legal issues involved. And that is why the community of Arab States proposes that Article 4 be maintained.

This is of the basic texts, that Article 4 should remain as it is. We should delete Resolution 163. So maintain Article 4 and delete Resolution 163.

Thank you, sir.

>> CHAIRMAN: I thank the United Arab Emirates for that presentation on behalf of the Arab States.

Next is a Europe text. 79A4/6. Will it again be Switzerland who speaks on this?

Switzerland?

>> SWITZERLAND: Thank you, sir. No. We presented our contribution already. Thank you.

>> CHAIRMAN: I thank Switzerland.

Then the last document on my list is 82/3 from Indonesia. You have the floor.

>> INDONESIA: Thank you, Mr. Chair. Firstly, I would like to congratulate you, Mr. Chair, and the Vice Chair for being nominated and elected to Chair this meeting. And further, I would like also to thank Mr. Chair for the opportunity given to me to deliver our proposal in this Working Group plenary.

INS/82/3. Mr. Chair, the initial proposal has been reflected in the APT proposal, number ACP/67A2/1, and with this regard and taking into account the things emerging from the Working Group on the stable constitution, we offer that no changes should be introduced in the present Constitution and Convention as thoroughly elaborated by Mr. Arasteh earlier.

Thank you, Mr. Chair.

>> CHAIRMAN: I thank the delegate of Indonesia.

So we have taken an overview of all these proposals. And you heard, like I did, that the overall majority of delegates wished to thank the Council Working Group, its Chair and Vice Chairs, for the hard work they put into this.

Many also pointed out that the group didn't reach conclusions and that therefore the issue remains open. And following that, Delegations and regions, indeed, took note and came to the decision that Resolution 163, which was adopted at Guadalajara, should be deleted.

Now, as far as changes to our Constitution are concerned, several regions spoke on this. Some regions, some countries individually, said that they saw no need for any changes to our basic text. Others did say that, all the same, there are issues which are still in abeyance, mentioning particularly the problem of certain ratifications, and that for that reason not everything has been settled. They therefore would like perhaps to have a new Resolution -- not to tackle a new Resolution while this is all suspended.

And then there was something later when one speaker expressed the opinion that we should avoid as far as possible changes to the Constitution and the other texts during the course of this conference, which we will come back to later.

So the main issue here is Resolution 163, where there were many speakers who spoke for deleting it. Perhaps it is that issue which we should tackle first.

I see the Philippines asked for the floor. I give you the floor.

>> PHILIPPINES: Mr. Chair, Mr. Vice Chairs, first I would like to congratulate the good gentleman from Switzerland as well as the various Chairs for having been given this great and honorous responsibility of deciphering the report of the CWG as well as the well documented and otherwise varying proposals in action to the CWG report.

Let me give the Philippine contribution by way of simplifying and clearing the situation. Let me start by saying that the group made its report and the report is voluminous. In reaction to the report, there was various proposals conflicting and with different ends. Let me point out that the various proposals can, in fact, be simplified and be grouped into three only. And let me do this so that we can make a clear report to the Plenipot on the basis of which report the Plenipot can have a clear perception of this major situation and for the Plenipot also to make their informed choice.

The first option or proposal -- there are three -- is the status quo. This proposal is led by that document of the United States, Canada, Brazil and Colombia. Because the work of the Council Working Group created pursuant to Resolution 163 is unfinished and incomplete, and even if finished or complete cannot lead to the amendment of the Constitution and Convention because there is a clear guideline on amending the Constitution stated in the current Constitution and Convention, the work of the Council Working Group on a stable Constitution did not create any operative effects. I'm using the word "operative." And because it did not create any operative effect, it did not in any way change, modify or amend the current Constitution or Convention.

Thus, the natural and logical consequence is the status quo. Meaning that the current CS and the current Convention remains effective if it still applies, whether we like it or not or whether there is a proposal to this effect on this. A status quo is always the default position absent any agreed principle on how to amend the Constitution.

The next option or proposal is or will be introduced by me by a question. Number two, do you want this status quo to be permanent relatively speaking absent any agreed mode of amending the current Constitution and Convention outside the Council Working Group on Resolution 163 Guadalajara? If the answer to this question is yes, then the proposal of the Asia Pacific region, the proposal of CITEL, the proposal of the United Arab Emirates, and to my recollection the proposal of Saudi Arabia to suppress Resolution 163 Guadalajara becomes relevant.

But when we say that our region work or Resolution ought to be suppressed or deleted, does it actually mean that that region's work will be obliterated or erased from the record and history of ITU? It will not obliterate or erase that written word. But if an effort to suppress or delete Resolution 163 is approved by the Plenipot, the resultant effect, your honors, is that the approved proposal becomes a footnote or a postscript to Resolution 163, also to be made of record and as part of the history of ITU telling the whole world that the Resolution 163 has ceased to be active and effective.

Briefly, then, option or proposal number two is the same as a status quo, because nothing moves, because the current Constitution and Convention remains. And, in fact, I can say that two, option two, is the same as option one, in effect at the bottom, because in fact option two is merely a variant of item or proposal one.

On the third grouping of proposals, if to the first or second question there is a need and the Plenipot says so that we will continue on the process of amending the Constitution, then the proposal of Japan and the proposal of Kenya are relevant because both of them are under group 3. And what is the proposal of Kenya? Kenya says that the work of the Council Working Group under Resolution 163 could be used as a foundation for us to improve on and for us in fact to address the issues legal raised in the Council Working Group report. But instead of CWG Resolution 163 to continue working, there must be a completely new CWG to do the work of improving on the work of the earlier CWG.

Japan also has the same substance. Japan says let us build on the work of the CWG Resolution 163 Guadalajara. And in accordance with the thoughts of the Japan contribution, it says that the Resolution 163 must be amended accordingly. And at the same time Japan suggests that in addition to amending the otherwise limited Resolution 163, the Council Working Group whose term has to be extended must be given the alternative power to propose an alternative mode of amendment.

So, basically, when we face the Plenipot there are only actually three proposals as all the proposals are grouped into these three. But even --

>> CHAIRMAN: Excause me, distinguished representative of the Philippines. You've been speaking for quite a few minutes now. Perhaps we would like if possible to stick to the three-minute rule. Could you please conclude? Thank you.

>> PHILIPPINES: (No audio)

>> CHAIRMAN: I'm so sorry. I'm giving you back the floor but I'd be grateful if you could conclude as briefly as possible.

>> PHILIPPINES: All I'm saying here, your honors, is regardless of what we do with options or proposals 1, 2, 3, we cannot forget the fact that under our current Constitution and Convention, every sovereign state has the power to propose an amendment.

Now, the question here is, and I'm now concluding, do we leave it to the individual sovereign States to make their own individual amendments or do we as a group collectively work together in realizing a collective process of amending the Constitution?

Thank you.

>> CHAIRMAN: Thank you.

I'd like to recall that if we wish to work efficiently, we need to keep our statements to three minutes.

A number of requests for the floor have been made. I'll give the floor first to China.

>> CHINA: Thank you, Mr. Chair. Please allow me to express my congratulations to you and other Vice Chairs for your election at Committee 5. Also, we know you will undertake very cumbersome and difficult tasks in the future.

Also, regarding the Council Working Group, the stable Constitution, we would like to thank the Chair and other staff working in that Working Group. They have made tremendous work in the process.

Also, regarding the item related to a stable Constitution, our stand has been expressed in the proposal made by APT. We also would like to make a point that we see the work of a stable Constitution is very basic and very important. The CWG also has made a lot of work. We also feel based on the work done by the Working Group, we should also discuss how to further develop work in this regard, so that means we have to discuss issues relating to Resolution 163. In this context, we suggest unless such changes are very necessary, we should make changes to the content of basic texts, because that will impact our discussion on the issue of a stable Constitution.

Thank you.

>> CHAIRMAN: Thank you, China.

And I'll give the floor to Iran, to be followed by the United Arab Emirates.

>> ISLAMIC REPUBLIC OF IRAN: I'm speaking on behalf of APT and not Iran.

Chairman, the issue is not as simple as our distinguished colleagues from the Philippines mentioned. If we carefully read the report of the Council Working Group, they raise several important issues, some of them are very crucial. Whether you have a Council Working Group between now and 2018 and between 2018 and 2022, unless the Plenipotentiary Conference does not give any clear guidance, that Council Working Group would not get any result of that.

I will raise three of them only to remain within three minutes. One, should the stable Constitution be a new Constitution or amend? Chairman, there are considerable difficulty in that, because of the implications of the Regulations, and all of us remember what is the situation of that. One simple example is WCIT in 2012. So no reply to that. So Council Working Group could not come to any conclusion on that, unless there is a clear decision by this conference.

Second, most important, the nature of the second document, binding or not binding? Chairman, there is no consensus and there will be no conscientious in the future, because many countries they believe that even if the second document does not require ratification, in their country they need some sort of ratification because of the national law and so on and so forth.

But this is not the end of the problem. The problem is that many provisions of the Constitution, whether it is stable or not, is a cross-reference to the Convention of today and second document of tomorrow if there would be any. If the second document does not have any nature of binding and does not require ratification, how you could subordinate provisions of the Treaty to provision of something which is not Treaty, Chairman? Legally, doesn't work. It creates considerable difficulty, Chairman. And there are many, many other issues.

So there is no point that the Council Working Group starts to reply to that. Perhaps we should come to the basic questions. Are there any other ways and means to inject a degree of stability to the Constitution? Chairman, I tried to remain within the three minutes. There will be no absolute stability in any paper or any document, but we could increase the degree of stability.

If you read the Council Working Group reports to the Council, and the Council discussion, there are some proposals mentioning that there might be other ways and means to inject a degree of stability by modifying Article 55 of the Constitution and Article 42 of the Convention. That is a possibility. But not at this conference.

To inject more stability to that, perhaps, Chairman, instead of establishing a Council Working Group, the question raised by the Council Working Group before this conference should be addressed to membership to come up, present a proposal to the next Plenipotentiary Conference of are there any other ways and means other than those discussed by the Council Working Group to inject a degree of stability or not? And that is the question, Chairman. It is very, very difficult to give, again, time and efforts and financial support to the group that does not receive clear instruction from the Plenipotentiary Conference.

Mr. Chairman, simply, there was no criteria to see which provision is considered Constitutional and fundamental and which provisions are considered functional and operational. This was based on the tastes of some colleagues. Some people say "for me, this is fundamental." Some other people say "for me, it's not fundamental," Chairman. So that is the question. So let us think it over to see to what extent whether it's useful for a Council Working Group or not. Deleting Resolution 163 and creating another Resolution with the same issue does not save the problem.

Thank you. Three minutes.

>> CHAIRMAN: Yes, sir. Quite a long three minutes, but three minutes nonetheless. Thank you, Mr. Arasteh.

The United Arab Emirates. And then I think the Vice Chair will take the floor. Habeeb Alshankiti.

>> UNITED ARAB EMIRATES: Thank you, Chair. I'll be brief and I won't go beyond one or two minutes.

Chairman, most of our proposals and conditions have been covered by Mr. Arasteh, the delegate to Iran. In light of the document presented by Japan, when we look at the Resolution and thinking about the mandate of the group, our task is to examine amendments to the Constitution and the Convention. We find it difficult to accept this text because amendments can't be presented by anything other than a Council Working Group. It's difficult to us to accept amendments to this Treaty.

Another item to mention is that we have added the word "convention" to our task, and very lengthy discussions have been held regarding the Convention.

A proposal was made by the African Group. But if another group is created, how will that Working Group's work be conducted? We know that Working Groups, when they're created, are affiliated to the Council. And so we're not sure how easy it would be to create another Working Group. We believe that the Council Working Group has worked tirelessly over the course of the past four years, and that's why our preference would be to maintain the situation as it currently stands.

Thank you.

>> CHAIRMAN: Thank you. And I'll give the floor to Mr. Habeeb Alshankiti and then Korea. Vice Chair, you have the floor.

>> VICE CHAIRMAN: Thank you, Chairman. I didn't ask for the floor. But since you've given it to me, this is an opportunity for me to speak.

I like what was been already said by Mr. Arasteh in his historical background to this process. By saying that the events since the Convention was adopted in 1998 has been followed by a high level Committee whose mandate allowed it to present a Constitution which was then adopted in 1992, but the Council Working Group was tasked with that process.

As you know, the Council wasn't very clear about the result, the conclusions which the group had reached. The working group's conclusions were accepted nonetheless along with the councilmembers' comments. The Council no doubt had its reasons for not submitting clear recommendations to our conference. But I suggest in light of this that our Committee should be clearer than that, without being influenced by what took place in the Council. I suggest that we adopt clear recommendations, unequivocal recommendations, for we are advisers to the Conference on this matter. An adviser should be clear about what advice they offer. If we bring an end to this discussion at some point in the future, we could then submit clear recommendations to the Conference so that that conference can take clear and cost cutting decisions, and the solution will therefore be holistic rather than partial.

Thank you.

>> CHAIRMAN: Thank you, Mr. Alshankiti.

The system told me that you asked for the floor. We have this electronic system, and perhaps sometimes it gives us a strange indication, strange bits of information. We had a problem before about Brazil that wasn't true and now we have had this one.

First of all, Korea and then Russia.

>> REPUBLIC OF KOREA: Thank you. First of all, I'd like to congratulate you on your Chairmanship and Vice Chairmanship of Committee 5.

The proposal by region, U.S. Europe and others, for the last three years Korea participated in this work with great interest and witnessing that all the Member States involved worked very hard on this issue. And I'd like to express our appreciation on the work done so far by the Council Working Group. And Korea supports the proposals to keep current structure of the basic instruments and suppress Resolution 163 for the work on -- to close the work on a stable Constitution.

Thank you, Mr. Chairman.

>> CHAIRMAN: Thank you.

The Russian Federation to be followed by Kenya. The Russian Federation.

>> RUSSIAN FEDERATION: Thank you, Mr. Chairman. May I also start by congratulating you and your Vice Chairs for your being elected to lead the important work of this Committee. And the Russian Delegation would also like to say how grateful we are to the Council Working Group, to its Chair and Vice Chairs, for the huge amount of work which they did.

At least we saw what that work means. And the fact that we have been able to see what it means, it's that that's brought us to the fact that there isn't any final decision as yet. And we have to be ready to adopt the decisions which were prepared for there.

So to sum up what was said by colleague, by Mr. Arasteh, for instance, by Mr. Alshankiti, if we look at what was being done before, and the last change was in 1992, where there was a special Committee, a very high level Committee set up preceding that, compare it with now. Now, the proposals seem to be that the structure we have is acceptable to the majority. We are happy not to change the preambular, Article 4, Article 5.

But for us to be able to make the Constitution stable, we need certain provisions. Because, for instance, until we have it written that we aren't going to change the Constitution at each Plenipotentiary, anyone can come with their proposal. And if the Conference decides that something needs to be changed, for instance, in the financial issues to improve our work, to make it easier, then obviously that's a change that we would want to make. But we do need clarity that we're not going to have changes at every Plenipotentiary.

For instance, have an Article 57 that says we won't make changes at every conference. Something like that would be adequate.

Thank you.

>> CHAIRMAN: Thank you.

Kenya, to be followed by Indonesia.

Kenya.

>> KENYA: Thank you very much, Chair. And speaking after a number of interventions ahead of me, I'll just not try to repeat what they have said, some of which I agree with.

But I needed to correct some impression that I thought I had was created earlier on, which was essentially that the Council Working Group could not agree or even discuss the ten or nine questions that it had highlighted in its report. I think recognition needs to be made that the Council Working Group was indeed working within the limit of the Resolution 163, and it recognized questions that needed to be tackled. It could very well have tackled them if all members agreed, but it indeed recognized that those issues were outside its remit and so it could not substantively delve into those issues.

And so, Chair, I see the pragmatic and practical effect of the proposals before you. If we could at some point agree to see them in terms of grouping, the practical effect as the gentleman from the Philippines had indicated. And I want to share in really the three effects and see what the practical effect would be in terms of the work of this Committee, and then discuss the merits of those efforts, and then agree at what -- out of those options, three or two, if we agree, we will take to the plenary. But I think that we need to discuss the proposals that are before you in terms of their practical effect.

Thank you.

>> CHAIRMAN: Thank you, Kenya.

There are still a number of requests for the floor. I'd like to close the list of speakers on this matter now. Indonesia, Niger, Zimbabwe, Iran and Mali. I'll close the list after Mali.

Indonesia, you have the floor.

>> INDONESIA: I think we have to rely on your wisdom, because there has been fairly clear proposals submitted to this Committee. And I still remember that you were also the Chair of the additional Plenipotentiary in Geneva.

Mr. Chairman, I think the wish is of course the simplification, stable provisions of the Constitution and Convention -- sorry, Constitution particularly.

Now, at this juncture I think we have to be fairly realistic and would like to stress what has already been elaborated fairly clearly by the representative of the Asia Pacific, and Mr. Arasteh added some very pertinent points, besides what has already been mentioned by Mr. Habeeb Alshankiti and also Russia and others. And of course the other groups have already stated similarly.

Mr. Chairman, I think at this juncture it might be good that we should decide that we should not change the Constitution and Convention. We should put fairly clear wordings in the minutes of the plenary. We honor the works of the Council Working Group, and the Council Working Group has done a very great job. It's indicating, you know, that there are limits there. And if there are additional proposals, we should not start now but, as has been suggested by several, to propose it to the next Plenipotentiary Conference.

So we rely very much on your wisdom, Mr. Chairman, that it could be formulated in such a way that, well, we do not neglect the proposals which would like to see better. But we should have that written and fairly clearly.

I don't think that at this Plenipotentiary we can do anything going to that. And we do not like that the Council Working Group should be extended.

Thank you, Mr. Chairman.

>> CHAIRMAN: Thank you.

Niger, to be followed by Zimbabwe.

>> NIGER: May I congratulate you for being elected to Chair and the Vice Chairs as well.

Now, going back to is it Resolution 163, I consider that while 163 was adopted in 2010 and if it was adopted then it was because there was a need for it. And that was a need to find a solution for the instability which had been discerned in the Constitution of the ITU. So for us that need to bring the stability to the Constitution of the ITU was something that existed and continues to exist. So as far as the work of the group is concerned, I think most people who have spoken have welcomed the work accomplished, but have said that the group came up against legality obstacles like the issue of whether it was able to find solutions to the issues which had been laid before it. For us the problem is not the question of should we suppress Resolution 163, but it's the fact that it had been decided that there was a need to bring stability to the Constitution and the need to deal with the obstacles that the group came up against and discuss them and to find a solution, again, to the obstacles.

That is the view of the public of Niger on this.

>> CHAIRMAN: Thank you.

I'll give the floor to Zimbabwe.

>> ZIMBABWE: Mr. Chairman, with regards to Resolution 163, the fact that the whole Plenipotentiary Conference in 2010 saw the need to come up with a stable Constitution is enough indication that there is need for stabilization of the Constitution. It would not be reasonable to abandon the work simply because we encountered consequential challenges. We should be able to come up with a solution without abandoning the work. It therefore does not make sense to come up with a decision that enables the work to go on in line with the African proposal.

Simply not going ahead with the work would mean that we are tracing back to the periods before 2010, and what we are simply saying is we have failed because we met obstacles and we cannot find a solution. I do not think we are a group of people that cannot put their brains together and come up with a solution to this and go on with the work.

This is the position of Zimbabwe and it's in support of the African proposal.

I thank you.

>> CHAIRMAN: Thank you, Madam.

Iran and then Mali. Iran, you have the floor.

>> ISLAMIC REPUBLIC OF IRAN: Thank you, Chairman. Yes, we had a problem. That was to find a way to have a stable Constitution. We had one single problem. And now we have created ten additional problems. Instead of resolving one, we created ten others.

Instead of having a stable Constitution, we create a great considerable instability of the Constitution, because we subordinate provisions of the Constitution to something which is neither a Treaty nor binding. Chairman, this is much more complex. So no one denies that we need a stable Constitution. Relative. I call them a "relative" stable Constitution. Because there is no absolute stability. But until this Plenipotentiary Conference would not provide necessary guidance to all these ten questions, any group would not have the possibility to provide something to the next conference.

The question is that are we in a position to give a reply to these questions, to say the second document is binding or is not binding? Chairman, how much time we have available at this conference, reply to that. How much time do we have available to reply as to whether or not the new Constitution, the stable Constitution drafted would be a new document or would be an amended document? And many other questions like this. Whether the General Rules of the conference would be part of the general principles which is the replacement of the conventions today?

Chairman, are we in a position to reply to all of these questions? If that is the case, we give you the Council Working Group.

Russia implicitly proposed something, implicitly, if they allow me. They said there might be other ways and means to inject stability to the Constitution, and I have also mentioned that perhaps we should work on that.

Chairman, when I got back to my country, I buy a Swiss watch, which is three minutes, three minutes, because my watch is slightly different than that one. So we have difficulty, unless you extend your watch with mine.

Thank you.

>> CHAIRMAN: Thank you. I'll give you the right address in Geneva. You'll know go where to go to get an accurate Swiss watch.

Now we call on Mali. You have the floor.

>> MALI: Thank you, sir, and congratulations on being elected to preside over our work. As you know, we know that if anyone can square this circle, it's you.

We listened very closely to everyone who has spoken. And as the representative of Kenya, Russia, Iran, Japan, and the Philippines said, the problem, and I think we all feel this way, is the need to have a Convention and a Constitution that is stable. And how we achieve that, what mechanisms we use, what ways and means we follow, that is what we need to discuss here.

Of course, we cannot touch anything, perhaps we can decide not to touch anything at this Plenipotentiary, but when we look forward to 2018, 2022, and so on, if we don't do anything then this same problem will arise. So we need to decide what means will we find, as the delegate of Iran said, to achieve that stability.

The Council Working Group tried to follow its mandate. Perhaps was for that reason unable to achieve any specific results. So why not, as of now, decide that the Constitution and the Convention are stable enough for us to give them a timeframe of X number of years without our needing to make substantial changes during that period. And then that would provide the stability we seek, something on which I think everybody agrees. The only thing we differ on is how we are to achieve the stability we seek.

So having listened to the various different parties, I wonder whether we shouldn't set up a small group, perhaps an informal ad hoc group, we can call it what we want, and they could seek for a magic solution on this instrument, this method which is so lacking to find a way out of the impasse we find ourselves in.

>> CHAIRMAN: I thank the delegate of Mali. So you're suggesting that we should show our wisdom by discussing between ourselves the sort of solution we could find. So I will start by responding to your appeal.

My proposal is that we take a small break to refresh our minds after this discussion, and come back at 4:40, in 20 minutes' time. 4:40. We will come back and continue our work.

(Break)

>> CHAIRMAN: I'd like us to resume you're debate, please.

I hope that you've enjoyed your coffee break. I've heard all the proposals which were made and the discussions that were held before the break. I know that this is a difficult topic and the evidence of that is the fact that the Council Working Group has spent a great deal of time on this without being able to reach a conclusion in terms of a solution to put forward.

I have a proposal now on the basis of what we've heard this afternoon, and on the basis of discussions during the coffee break with a number of delegates. I don't believe that the creation of a small group to move forward can be avoided. That wasn't my original plan, but I think that's what's required. I've given some thought firstly to what this small group could do and secondly to who could lead it. In terms of leadership, I thought of a delegation which hasn't made any proposals in writing for the Conference. And I'm talking about the Russian Delegation. And the Russian Delegation could find us someone to manage this small group. Now, in light of the outcomes of the work of the Council Working Group, and the proposals and discussions which we've heard here today, the small group could have as its task to put forward a solution to ensure the future stability of the basic texts. And I'd even say "relative" stability, because as a number of delegates have said, we can't prevent States from suggesting modifications to those texts. So I think we need to talk about "relative" stability. And the idea, however, would be on the basis of today's discussions, to find a solution for the future. How are we to proceed to reach this relative stability which we seek? That's my proposal, then. And the small group in question could make a proposal to us as early as next Tuesday.

I see Iran asking for the floor and I'll give Iran the floor now.

>> ISLAMIC REPUBLIC OF IRAN: Thank you, Mr. Chairman. Thank you for the offer of the watch. We appreciate very much that.

Chairman, we fully support your proposal. It is very wise, and it facilitates the task that you nominate someone who has not distributed contributions, written proposals to this conference relating to the stable Constitution and so on and so forth. So I'll leave it to the distinguished Delegation of Russia to propose someone in the Delegation who is ready to sacrifice his time and to act to that.

And having said that, if the group is established, then I have another proposal to make.

Thank you.

>> CHAIRMAN: Thank you.

Mali, to be followed by Zambia. Mali, please.

>> MALI: Thank you, Chairman.

Mali supports your proposal and hopes that a problem shared will be a problem halved. And we can create this small group to be able to move forward. We place a full measure of trust in the Russian Federation. They will be able to guide us forward.

Thank you.

>> CHAIRMAN: Thank you, Mali, for that support.

Zambia, please.

>> ZAMBIA: Mr. Chairman, I'd like to begin by congratulating you on your appointment.

We are in full support of your proposal and I am in full agreement of the comments given by Iran and Mali. We believe that is the best way we can help the member delegates move forward with this issue, which is very important. A smaller group would definitely be able to dissect issues and give us better guidance on how we can find a conclusive solution to this issue.

Thank you, Chair.

>> CHAIRMAN: Thank you, Madam, for your support.

This group will naturally be open to anyone wishing to participate and contribute to finding this solution or, as Mali said earlier, to get us out of this fix. So I hope that to square this circle, I hope that we will be able to find then a solution that will satisfy everyone.

Philippines, to be followed by Russia.

>> PHILIPPINES: After having the various proposals in the discussions on the floor, we second the proposal of the Chair. Thank you.

>> CHAIRMAN: Thank you. Russia, you disappeared from my screen. Do you want the floor? Apparently not.

Russian Federation, I give you the floor.

>> RUSSIAN FEDERATION: Thank you, Mr. Chairman. Actually, I was hoping to speak, if you trust Russia, to speak later. But I think it's perhaps a bit early for me to speak while we're still discussing it. Thank you.

>> CHAIRMAN: Very well.

At this time I don't think I'm mistaken. I think the Vice Chair would like to speak. You have the floor.

>> Vice Chairman: Thank you, Chairman.

You're speaking here about the stability of the Constitution. Are we just talking about the Constitution or are we also talking about the stability of the Convention? We need our message to be clear. There was a time when we spoke also about the stability of the Convention. We need to be clear about this. So please, Chairman, specify what you think.

>> CHAIRMAN: Mr. Arasteh? Iran.

>> ISLAMIC REPUBLIC OF IRAN: Thank you, Mr. Chairman. Certainly we have full trust of the Russian Federation Delegations to nominate someone to do this work. They have very actively participated in the Council Working Group, and thanks to the time and efforts devoted to that by the Russian Federation.

With respect to what our distinguished Vice Chairman, Mr. Habeeb Alshankiti mentioned, yes, we have to be very clear that here we are not talking only of a stable Constitution. Let us be more general talking about the basic instrument of the Union. And once you allow that I would perhaps in the meantime prepare something as a very simple term of reference of that group. Because I'm sure that as soon as you establish the group, Mr. Chairman, they will ask what is the term of reference. If you wish I can do that. If you don't, I can do that at a later stage.

Thank you.

>> CHAIRMAN: Thank you.

Yes, in the spirit to which I mentioned earlier, I think concerning the mandate, we could have a text by, and I'm asking the Secretariat when we might have a text by. I think it could be quite quick. This evening. If you want to come, Mr. Arasteh, or if anyone else wants to come to draft this text, we could have the proposals for the issue of the stable Constitution. I think because we have had this problem of transparency in Guadalajara, I think we will put the Working Group and the dates of its meeting on the board. That will allow us to work with transparency.

Iran.

>> ISLAMIC REPUBLIC OF IRAN: Thank you, Mr. Chairman.

Perhaps as you mentioned the term of reference should be simple. Perhaps something along the line of the following, maybe your secretary or counselor could kindly take note of what I'm suggesting. I'll read it in dictation speed, enabling other colleagues to take note of the suggestions.

The term of reference of the ad hoc group, if I understood it correctly, would be the following: "To examine proposals submitted by Member States to this conference regarding the implementation of Resolution 163 Guadalajara 2010." You can open the round bracket "stable Constitution, including the report of the Council Working Group on the stable Constitution and the summary records of discussions that took place in Council 2013, with a view to find/suggest options to contribute to the relative stability of the basic instruments of the Union, pursuant to CS 57." In fact, CS 57 refers to this matter as a term of reference of the -- any Plenipotentiary Conference to talk about that. And it's point 2 of Article 55 and other of the Constitution and other relevant Articles of the Convention.

This is, Chairman, a simple straightforward term of reference. We are not writing a Treaty here. We just have a simple work to see what is the term of referenceh. And I'm sure that that would I hope satisfy the requirements of colleagues here. If that is the case, therefore, maybe if you decide the document could be arranged, provided, and giving that to make it clear for the people, unless people want to comment on that.

But I suggest, Chairman, perhaps in order to be efficient and for the sake of time, maybe we do not engage to the amendment of this text at this meeting but if people have comments they may direct their comments to the Secretariat and take that into account. And under your guidance and your vice-chairs, you can provide a final DL for discussions and reference to the Chair of the group, whoever it would be from the Russian Delegation.

Thank you.

>> CHAIRMAN: Thank you, Iran.

We should specify I think that we're speaking only about the stability of the Constitution and the Convention and not the other instruments. We can agree on that. I think.

With that, then, I suggest that we draft that mandate. And as soon as we can, tomorrow morning it's to be hoped, that the text will be published. And then the group can meet. The group will be an open one and it will report to us I hope on Tuesday next week. So as I've said, we will use the screens with which you are familiar to communicate the dates of the group's meetings. Can we proceed in that way?

Switzerland, do you have a comment? Switzerland.

>> SWITZERLAND: Thank you, sir.

Mr. Chairman, yes, this is a purely practical issue. What name should we look for on the screen for those who would like to follow the work of this group? I can imagine now all the Committees, the plenary Working Group, everybody will be setting up subgroups and then subgroups of the subgroups. And the screens will be cluttered with the various names of the subgroups. So we need to have the exact name we should be looking for on the screen. Thank you

>> CHAIRMAN: Thank you for that question. So my proposal is that it should be the group on a stable Convention and Constitution. "Group on a stable Constitution and Convention." Let's get it the right way around.

United Arab Emirates, you're asking for the floor. You have the floor.

>> UNITED ARAB EMIRATES: Thank you very much, sir.

As far as the proposal that we create a group whose job will be to consider this issue, I would like to ask you for clarification. What is the mechanism that this group is going to follow? In fact, no decision was taken in Committee 5 on this issue, and it has been devolved to the lower group. So we haven't found another mechanism for tackling this. So we need clarification.

And another thing, the group which is to be dealing with this stable Convention issue, there are some paragraphs which are still in brackets. Will those paragraphs be considered or will this new group just be deciding on what mechanism will allow us to examine this issue?

I think the mandate of the group isn't sufficiently clear, Mr. Chairman. That's why we're asking you if you would clarify before the group starts its work. We do need to know its exact mandate, the mandate of this group which is to be established, before it starts its work.

Thank you, sir.

>> CHAIRMAN: Thank you. I now have the Vice Chair Mr. Seyed Mostafa Safavi Hemami that would like to speak.

>> VICE CHAIRMAN: Yes. Since we have proposals from regional organizations, as was mentioned by Mr. Arasteh, the Asia Pacific community, so I think we should say by Member States or regional organizations. Or delete it to say "to examine proposals submitted to this conference" so that we do not exclude the regional organization APT. Thank you.

>> CHAIRMAN: Thank you for that comment.

I have Canada and then Iran. Canada, you have the floor.

>> CANADA: Thank you, Mr. Chairman.

Very briefly. I'd like to thank Mr. Arasteh from Iran for submitting a draft text for the terms of reference. We concur with the objective, although we have just a question in regards to the use of the term "Relative" stability as suggested by Iran.

And again, Mr. Chairman, in regards to the questions raised by the UAE, I think that the whole purpose of this exercise, without being particularly specific, is for this group to basically, as established by the terms of reference, take a look at what has been proposed. And that of course is open for that Working Group to come up with some kind of an outcome by means of alternatives that range from there is nothing more that needs to be done, or suggest an alternative that could include asking Council in 2015 to take another look at this issue. But we believe that at this stage, Mr. Chairman, it is clear that the best solution to move forward is to go ahead with this Working Group, with the terms of reference, as suggested by Iran.

Thank you.

>> CHAIRMAN: Thank you.

Iran, you have the floor.

>> ISLAMIC REPUBLIC OF IRAN: Thank you, Mr. Chairman. No problem with the suggestion of the Vice Chair to just simply say "proposals submitted to this conference." It's quite clear that proposals coming from Member States and in fact regional organizations are the global Member States. But that suggestion is good.

Not to have difficulty, but instead of "To examine" we could say "Taking into account." That means they take into account this, but the proposed option might be slightly different. Take into account proposals submitted to this conference, so on and so forth. And then instead of the basic instrument, I said "Constitution and Convention" and I agree that we don't refer to "relative." It was mentioned by you. Perhaps we don't have it in the written form. But perhaps the examination of the group, nothing can be absolute. There is no absolute in the stability and so on and so forth. But that's my understanding of that.

And with respect to the question from the United Arab Emirates, when the Russian Federation implicitly suggests something, in fact, in APT we had that discussion. In the third preparatory meeting of the APT, there was a proposal to that meeting in regard with the injecting degree of stability as follows:

To modify Article 55 the following way, saying that proposals for 55 and 42 -- proposal for the modification or amendment, in fact not modification, amendment, in the Constitution and document, proposal regarding the amendment of the Constitution and then for the Convention, first will be examined by the Plenipotentiary Conference in order to identify the need or otherwise or appropriateness of that proposal for amendment.

Once that need was justified or recognized, then the proposals for detailed examination will be submitted to the subsequent Plenipotentiary Conference. That means you have at least eight years' stability.

Moreover, apart from that, currently, for the amendment to the Constitution, if it goes to the voting, which I hope we usually agree by unanimity or consensus, this is the spirit of the Union for many years, but if it goes to the vote, currently for the Constitution we need two-thirds of the majority from those Member States who have the right to vote for the Constitution and a simple majority, 50 percent plus 1, for the Convention.

The group may suggest different criteria. May suggest different criteria. That would also provide further stability to that because, perhaps, just for instance, if instead of two-thirds for the Constitution we talk about four-fifths, that means provide more stringent criteria. And that is not invented. There are many Governments, institutions, Parliament, that they use this four-fifths of majority. I don't name some of them, but there are.

And in addition to that, quorum is required to decide on any decision. Currently is simple majority. Perhaps for the approval of the amendment to the Constitution and Convention, perhaps that quorum of simple majority may change.

So there are a lot of suggestions, and that is why we put options. We did not mention anything. In fact, maybe if the group is established, Chairman, please don't count this intervention as a minute because it is your suggestion to me to propose something --

(Laughter)

I don't want to buy another watch.

That group may, in the name of the Chairman, propose something to facilitate the task of the group. So maybe we, from other regional organizations, after discussion of the level of the region, we may propose something to the Chairman of that group. That is just to take the advice of the distinguished colleagues from the United Arab Emirates. There are some things -- in fact, the United Arab Emirates already in one of the Council Working Groups also referred to that issue. And I remember that it is in the report of the summary of discussions, and I remember that.

We had the proposal to the Council at that time. Unfortunately, Mr. Chairman, we were not a member of the Council. We had little opportunity to defend our proposal. But I think maybe in this situation it would change.

Thank you.

>> CHAIRMAN: Thank you. I don't want to go into the details of what this group could do. But I just want to say there could be some different solutions to this. The group could show some creativity without getting too unrealistic. We need to keep our feet on the ground.

So for tomorrow morning I will have a written mandate for the group, terms of reference for the group. And on the screens you'll see the group will be under the Chairmanship of Russia. And then we look forward to having a report next Tuesday.

I don't see anybody else asking for the floor. So it is so adopted.

My thanks. Now, Russian Federation, perhaps you have some clarifications to offer for the group? You have the floor.

>> RUSSIAN FEDERATION: Thank you, Mr. Chairman.

The Russian Federation thanks the Committee for your confidence that you've shown in us. We propose it will be Alexander Vassiliev, who you all know well, who will head the group. He is very experienced in these kinds of matters.

We understand -- well, I hope I understand our task correctly. The task is to decide on what sort of modalities of proposals for amendments we need for us to provide for the stable character of these two documents, the Constitution and the Convention.

So if I understand correctly, the task which has been laid upon us, we will try with Alexander, who can carry out the consultations and will bring back a result.

Thank you, sir.

>> CHAIRMAN: Thank you for this proposal from the Russian Federation, which will Chair the group. I'm sure you will work well and achieve results. You will achieve options which you can bring back to us.

I now suggest we finish with this subject for today and we go to the next point, next item on the agenda, which is item 6.

We have proposed amendments to Article 84 of the Convention, which is duties of the Secretary-General.

This is a proposal from the United States, and the document is 27R1/7. You have the floor, United States of America.

>> UNITED STATES OF AMERICA: Thank you, Mr. Chairman. In this contribution the United States proposes to modify number 84 of the Convention to emphasize more clearly the responsibilities of the Secretary-General in relation to the ITU Council. Specifically, the United States proposes to clarify that the Secretary-General is responsible to the Council for fulfilling his or her duties, and that the Secretary-General is responsible to the Council for the activities and work of the General-Secretariat and for the performance of his or her duties, in addition to the overall management of the Union's resources.

Thank you.

>> CHAIRMAN: Thank you for this proposal.

Iran. You have the floor.

>> ISLAMIC REPUBLIC OF IRAN: Thank you, Mr. Chairman. It is on behalf of APT, as usual.

Chairman, we appreciate the good will of the United States administrations that clarifying that the Secretary-General is responsible to the Council in the way that was expressed. But perhaps, Mr. Chairman, we believe that it has been the case in the past. Always the Secretary-General was responsible to the Council, and very faithfully any question raised at the Council by distinguished councilors, a reply or any confirmation of any understanding has been provided by the Secretary-General or by the staff that is designated by the Secretary-General in that regard.

In view of the fact that the APT common proposal, talking of that, no modification to the Constitution and Convention at this conference, Busan 2014, maybe the views or the proposal of the United States perhaps could be properly reflected in a different matter as indicated in the APT common proposal, as there are other ways to do that. We believe one way to do that would be to have a paragraph from Committee 5 going to the plenary and it would recorded in the minutes of the plenary, reasoning the situations. And once the Chairman of the Conference declared that it was so agreed, for us it would act exactly or achieve exactly the objectives of the United States.

In fact, at the previous conference, Plenipotentiary 2010, we had other situations and by putting something in the minutes of the plenary that objective was achieved without modifying the Convention.

So we are not saying that in the future, maybe once we decide in the future how to do, maybe later on we come back and put it in the Convention. But perhaps at this conference between now and 2018, if the United States administration would kindly consider these suggestions from APT that it could be properly reflected in the outcome of this conference, rather than modifying the provisions of the Convention at this conference, and doing it later and help us achieve our objectives.

Chairman, it's very difficult at the Conference to modify the Convention and Constitution, because we face the same difficulty, until the time that we reach an agreement, how to stabilize the Constitution and Convention. And I thank you very much and thanks to the United States to consider the suggestions by APT.

Thank you.

>> CHAIRMAN: I thank the APT.

I will now give the floor to China and then the Russian Federation.

China, you have the floor.

>> CHINA: Thank you, Mr. Chairman.

We also are of the view that we should not make amendment to this Article after the considerations. First in the APT proposal, we made it very clear unless it's absolutely necessary, we should not make changes and amendments to the articles of the Constitution and Convention. If we modify the Article 84 here, you might mislead people to think that our Secretary-General hasn't been fulfilling his duties in the past years. It's very strange.

Second, in the Constitution and Convention, there are many Articles related to the beauties of the Secretary-General. If we make amendments to Article 84, it means that we have to modify all the other related articles and provisions. It's very complicated.

Three, in the proposal of the United States, it's the Secretary-General should be responsible for Council. We all know the Secretary-General is directly elected by all the Member States, while Council has only 48 members. If you ask the Secretary-General which is selected by all the Member States to be responsible for a Council comprising only 48 Member States, it's very strange. So I'm sure we have other options to reflect the concern of the United States, rather than make amendments to Article 84.

Thank you, Mr. Chairman.

>> CHAIRMAN: Thank you to China.

The Russian Federation and then it will be the Philippines.

Russian Federation you have the floor.

>> RUSSIAN FEDERATION: Thank you, Mr. Chairman.

We want to thank the United States for this proposal. we understand that they want to improve the work of the Secretary-General, but we agree by what was said from the representative of China. In the form that this proposal was put, it says that the Secretary-General is responsible to the Council. But he is elected by the Plenipotentiary. So the Secretary-General is responsible to the Plenipotentiary and to all the administrations which they represent, not just to the 48 or however many there are members of the Council.

Of course, he reports to the Council and the Council gives him tasks. That is what happens and that's the way it's supposed to happen. But at least the way that we have been given this text in Russian, in my reading of it, it means that the Secretary-General is responsible to the Council and to the Council alone.

As we see it, that isn't entirely correct. It's the Plenipotentiary which elects him and it is to the Plenipotentiary that he is responsible and he reports.

>> CHAIRMAN: Thank you. Now I give the flar to the Philippines and then Indonesia.

>> PHILIPPINES: Mr. Chair, my apology if I seek a point of clarification. In regard to item 5 of the agenda, and the clarification raised by Russia, as concurred by the Chair, my understanding in regard to the mandate of the little Committee as agreed on was precisely to find a solution to the various proposals named in item 5, and find a way of reconciling or otherwise finding a solution to these varying proposals on the floor. That is why the gentleman from Iran so kindly drafted the term of reference of the Study Group to be headed by Russia.

But closing this topic, my friend Mr. Minkin said that the Study Group will find modalities on how to amend the Constitution. It appears that these two mandates now are conflicting in that, in fact, how can the little group find modalities on amending the Constitution and Convention when, in fact, two groups, the U.S. and the Arab Group and the Asia common proposals speaks of a status quo and of deleting and suppressing Resolution 163?

So which is which now as to the mandate of the group, which precisely was organized in relation to agenda 5?

Thank you.

>> CHAIRMAN: Thank you. I will respond later to this. But let's go on for the moment with item 6.

Indonesia and then Mali.

>> INDONESIA: Thank you, Mr. Chairman.

Yes, it's an American proposal and also the APT proposal that at this juncture we do not want to see changes to the Constitution and Convention.

The Secretary-General is elected by the Plenipotentiary, as Russia has indicated. So he surely is responsible in the end to the Plenipotentiary. But, Mr. Chairman, we don't have problems, because the Secretary-General reports to the Council, and the Secretary-General as well as the Council reports to the Plenipotentiary. So we do not see any necessity at this juncture that it should be changed, as has been indicated by Russia, China and Iran.

Thank you, Mr.  Chairman.

>> CHAIRMAN: Thank you. I still have Mali and Iran, and then I will close the discussion; given that we're coming to the end of our meeting, which will be at 5:30.

Mali, you have the floor.

>> MALI: Thank you, sir. I think that we needn't go into the substance here. What is important here is that given that what we're talking about, what is so important, the stabilization of the Constitution and the Convention, we should remain in that theme and take the two together, perhaps declaring that during this PP we won't make any amendments.

The image that I would like to create for my proposal is that supposing you were sitting on a branch, you're holding a saw, you don't want to be sawing the branch on which you're sitting. We want to make sure that we don't do that, because we don't want to fall.

So in the same way both questioning and trying to stabilize at the same time seems to us a thankless task. So we would say let's treat all amendment proposals on the same footing, so we will say for this conference let's put aside these amendments, and then we will look forward to 2018. And in the report of the meeting it will be stated that this or that country or region made this or that proposal, and we will come back to them in 2018.

>> CHAIRMAN: Thank you.

Iran, please.

>> ISLAMIC REPUBLIC OF IRAN: Thank you, Mr. Chairman. In addition, what we and I on behalf of the APT intervention, if we just highlight the responsibility of the Secretary-General to the council, the question raised by other colleagues may be what about with respect to the entire membership? That is one point.

In addition, if you highlight the Secretary-General is only responsible, we are silent with respect to the accountability and the responsibility of the directors to the Council. They are not responsible, accountable to the Council? So that would add another point of difficulty. Perhaps those people who have drafted the current Convention, they have taken that into account. It is understood as such that they are responsible, the Director is responsible, the Secretary-General is responsible to the Council. And from the time that we have -- you remember from 1965, I have seen all Secretary-Generals, everybody, all of them have properly responded and are accountable to the Council, and there is no need to mention that. Maybe you can just mention it in a simple sentence in the plenary.

And I thank you very much.

>> CHAIRMAN: Thank you.

I will give the floor to the United States. I think given what we have just heard, this proposal for an amendment to CV 84 doesn't have a lot of support.

United States, you have the floor.

>> UNITED STATES OF AMERICA: Thank you, Mr. Chairman. And I want to thank our colleagues for making very helpful points and raising the concerns. It certainly was not our intention to amend this text so that the Secretary-General would only need to be responsible to the Council.

We also very much take onboard the concerns raised that we should only revise the basic instruments when absolutely necessary. And for that reason, given those concerns, we would be comfortable with putting a sentence or two, as the delegate from Iran offered, into the report of the meeting. And perhaps in the way that it's phrased, we can clarify some of the confusion that our proposal created.

Thank you.

>> CHAIRMAN: Thank you for that suggestion.

I'll think about that and talk with you and perhaps other delegates about how we could word your concerns in the report, as we did in 2010 in Guadalajara, taking into account the comments made. So that's how we will proceed, if you don't mind.

Kenya came up on the screen. I want to close the session. Do you need to speak today, Kenya?

>> KENYA: Thank you very much. I'll be content with the response to the question raised by the Philippines. Because I intended to ask for the floor to raise a similar concern.

I read -- I understood the gentleman from Iran to say that the ad hoc group will be examining proposals to the conference and not just limited to what the group that you have formed, the Chair of the group has summarized. So if you could make that clarification, I would be content.

Thank you.

>> CHAIRMAN: Iran, do you wish to respond?

>> ISLAMIC REPUBLIC OF IRAN: With pleasure.

The text that I have read for colleagues, we never talk about Article 55. We talk about the stability of the Constitution and Convention pursuant to number 57 of the Constitution. So the issue is exactly how -- what ways and means and modalities is available in order to provide stability to the Constitution and Convention.

Full stop. Thank you.

>> CHAIRMAN: Yes, thank you. The main aim is to resolve the stability issue.

Russian Federation, you asked for the floor.

>> RUSSIAN FEDERATION: Thank you, Mr. Chairman.

I just hoped to clarify and answer the question from my colleague from the Philippines. The point is that for whatever proposals on the stability of the Constitution and the Convention, whatever proposals we might bring forward, they would still require the addition of text into the Constitution or the Convention. Because if you just take the text -- only text in the document itself can provide any guidance or instructions on what is to be done to change the text in order to stabilize the Constitution or the Convention.

In other words, we can only stabilize the Constitution and the Convention by putting specific text in the provisions of the Constitution or the Convention. And Iran showed this very clearly during the work of the group. Other administrations, too, during the work of the group showed very clearly that because the group didn't have a mandate to take such decisions, it wasn't able to do that. But I think clarity is emerging, and the group we are setting up would do its best to tackle this issue.

But in response to our colleague from the Philippines, I would say we can't do anything without touching the wording of the Constitution and the Convention as they stand. But there is no ban on the Plenipotentiary changing the texts. We might introduce such limitations, but there aren't any at the moment.

So now we need to decide, do we need amendments to the Constitution and the Convention or don't we? Start with that. Thank you.

>> CHAIRMAN: I thank the Russian Federation for these clarifications.

So, in any case, this Working Group would be looking forward to proposals and options for how to tack a problem of stability and then further down the line we would choose how to proceed, practically speaking, what would be the best thing to do to make changes to the basic text if that should be necessary. That's all we can say at this stage. So we will bring draft terms of reference or a draft mandate which will be distributed tomorrow.

Now before we close I want to come back to something which was said by the colleague from Mali who said we should do some serious thinking over all the proposals we have received for this conference. Perhaps they should be discussed in a different light, in a different way, given the fact that it's problematical to make changes in other places during the course of this conference.

I'll just leave this as food for thought overnight for you, and then we will come back to it tomorrow at 2:30 in the afternoon, when we have our next meeting.

Russia, are you asking for the floor again? I will give it to you and then I will close the meeting.

>> RUSSIAN FEDERATION: Thank you, Mr. Chairman. I'm not speaking as a part of the Russian Federation, but as the Chair of the newly formed group. May I start by thanking the meeting for its confidence in me and thanking all colleagues who supported this decision.

At the same time, I'd like to note that as I understand it, and as you have explained, this group should not be considering all proposals. What it will be considering is only proposals covering the stability of the Constitution and the Convention.

We could look at various methods of tackling this. For instance, we have the proposal about how Article 8, paragraph 57 in Article 8 could be changed. This is about the agenda for the Plenipotentiary, and other things, too, could be discussed.

Thank you.

>> CHAIRMAN: Thank you for that clarification.

I'll now close today's session and we will meet again tomorrow at 2:30 p.m. Thank you, again, for your cooperative spirit. And I'd also like to thank the interpreters for staying late. Thank you.

The session is now adjourned.

(End of session, 17:44)

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