

PLENARY MEETING

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Brazil/Canada/Colombia/United States

PROPOSALS FOR THE WORK OF THE CONFERENCE

STABILIZATION OF THE BASIC INSTRUMENTS OF THE UNION

The above Member States view the Constitution and Convention of the Union, adopted by the Additional Plenipotentiary Conference (Geneva, 1992), as enduring instruments that provide a firm legal basis for the International Telecommunication Union (ITU). The Constitution has proven to be fundamentally stable in the more than twenty years since it was adopted, with only slight modifications when necessary. It is our view that the instruments of the Union do not need to be restructured and that trying to restructure them would destabilize these instruments and the ITU.

BACKGROUND:

Pursuant to Resolution 163 (Guadalajara, 2010), the Council Working Group produced a “Report by the Chairman of the Council Working Group on a Stable ITU Constitution” (Report) for consideration by PP-14. Despite enormous effort and excellent leadership, the results of the Council Working Group for a Stable Constitution (CWG-STB-CS), as reflected in this Report, did not result in a proposed Constitution with fewer articles. In fact, this two-hundred page Report provides text of a draft new “Stable Constitution” that would be longer and more complex than the current Constitution and an “other document” that is intended to be legally binding, but not subject to ratification, approval or accession by Member States. The Report highlights several issues that the CWG-STB-CS was unable to resolve, including the hierarchy and interrelationships of the new “Stable Constitution”, the “other document,” the Administrative Regulations, and the General Rules of Conferences, Assemblies and Meetings.

DISCUSSION:

The above Member States appreciate the efforts of the CWG-STB-CS, established pursuant to Resolution 163 (Guadalajara, 2010), to propose mechanisms for ensuring the stability of the Constitution. However, we believe the outcome of this Council Working Group shows that the efforts directed at stabilization could in fact create less stable legal instruments. The experience of the CWG-STB-CS demonstrates that the approach defined by Resolution 163 (Guadalajara, 2010) -- moving fundamental and stable texts into a new “Stable Constitution” and moving all other texts to a new non-treaty document – will not achieve the goal of a stable Constitution and, in fact, will undermine the stability of a set of treaties that have endured since their adoption in 1992.

PROPOSAL:

The above Member States propose that the ITU retain the current framework for the legal instruments of the Union and, as such, that they propose “No Change” to Article 4 of the ITU Constitution.

Article 4 of the Constitution defines the instruments of the Union, their inter-relationship and the hierarchy of each to the other. In so doing, it establishes which instrument would prevail in the case of inconsistencies between their provisions. Article 4, as it is currently written, is bedrock for maintaining a stable legal framework for the Union. For this reason, no change to this important article is proposed.

**CONSTITUTION OF
THE INTERNATIONAL
TELECOMMUNICATION UNION**

CHAPTER I

Basic Provisions

NOC B/CAN/CLM/USA/31/1

ARTICLE 4

Instruments of the Union
