
PLENARY MEETING

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Indonesia (Republic of)

PROPOSALS FOR THE WORK OF THE CONFERENCE

The Republic of Indonesia is honoured to present its proposals for further consideration by this Plenipotentiary Conference (PP-14), on three major items:

- 1 Modification of Resolution 182 (Guadalajara, 2010) on the role of telecommunications/information and communication technologies in regard to climate change and the protection of the environment;
- 2 Legal framework on Cyber security; and
- 3 ITU Stable Constitution,

as contained in Annexes 1, 2 and 3, respectively.

All Members believe, that ICT technologies will play a pivotal role in improving climate change and environmental protection. In order to succeed country-wise and globally, it is most important that ITU provide in field assistance for its Member countries, particularly the developing countries, in achieving this noble goal for mankind.

To obtain a concrete and genuine realization of preventing cybercrime pursuant to the relevant existing Resolutions, Resolution 130 (Rev. Guadalajara, 2010) on Strengthening the role of ITU in building confidence and security in the use of information and communication technologies and Resolution 181 (Guadalajara, 2010) on Definitions and terminology relating to building confidence and security in the use of information and communication technologies, as well as UN General Assembly Resolution no. 55/63 on Combating the criminal misuse of information technologies, a revised *resolves* under the first Resolution is proposed.

Taking into account the consequences and controversies emerging from the CWG-STB-CS on Stable Constitution, it is proposed that no fundamental change should be introduced in the present Constitution and Convention, and to suppress Resolution 163 (Guadalajara, 2010).

ANNEX 1

MOD INS/82/1

RESOLUTION 182 (~~GUADALAJARA, 2010~~ REV. BUSAN, 2014)

The role of telecommunications/information and communication technologies in regard to climate change and the protection of the environment

The Plenipotentiary Conference of the International Telecommunication Union
(~~Guadalajara, 2010~~ Busan, 2014),

recognizing

- a) Resolution 136 (Rev. Guadalajara, 2010) of the Plenipotentiary Conference, on the use of telecommunications and information and communication technologies (ICTs) for monitoring and management in emergency and disaster situations for early warning, prevention, mitigation and relief;
- b) relevant resolutions of world radiocommunication conferences and radiocommunication assemblies, such as Resolution 646 (WRC-03), on public protection and disaster relief; Resolution 644 (Rev. WRC-07), on radiocommunication resources for early warning, disaster mitigation and relief operation; or Resolution 673 (WRC-07), on the use of radiocommunication for Earth observation, in collaboration with the World Meteorological Organization (WMO);
- c) Resolution 73 (Johannesburg, 2008) of the World Telecommunication Standardization Assembly, on ICTs and climate change, which resulted from the successful work of the focus group created in 2007 by the Telecommunication Standardization Advisory Group to identify the role of the ITU Telecommunication Standardization Sector (ITU-T) in regard to this issue, and was adopted in response to the needs identified in the relevant contributions to WTSA-08 by the ITU regional groups;
- d) Resolution 66 (Rev. ~~Hyderabad, 2010~~ Dubai, 2014) of the World Telecommunication Development Conference (WTDC), on ICT information and communication technology and climate change;
- e) Resolution 54 (Rev. ~~Hyderabad, 2010~~ Dubai, 2014) of WTDC, on ICT applications information and communication technology;

f) Resolution 1307 adopted by the ITU Council at its 2009 session, on ICTs and climate change,
recognizing further

- a) § 20 of Action Line C7 (~~Ee~~-environment) of the Geneva Plan of Action of the World Summit on the Information Society (Geneva, 2003), calling for the establishment of monitoring systems using ICTs to forecast and monitor the impact of natural and man-made disasters, particularly in developing countries;
- b) Opinion 3 of the 2009 World Telecommunication Policy Forum, ~~on~~ (ICT and the environment), which recognizes that telecommunications/ICTs can make a substantial

contribution to mitigating and adapting to the effects of climate change, and calls for formulating future inventions and efforts for effectively addressing ~~climate change~~it;

- c) the outcomes of the ~~United Nations~~UN Climate Change ~~€~~Conferences held in Indonesia in December 2007 and in Copenhagen in December 2009;
- d) the Nairobi Declaration on the Environmentally Sound Management of Electrical and Electronic Waste, and the adoption by the Ninth Conference of the Parties to the Basel Convention of the Work Plan for the Environmentally Sound Management of E-waste, focusing on the needs of developing countries and countries with economies in transition,

considering

- a) that the United Nations Intergovernmental Panel on Climate Change (IPCC) estimated that global greenhouse gas (GHG) emissions had risen by more than 70 per cent since 1970, having an effect on global warming, changing weather patterns, rising sea-levels, desertification, shrinking ice cover and other long-term effects;
- b) that climate change is acknowledged as a potential threat to all countries and needs a global response;
- c) that the consequences of developing countries' lack of preparation in the past have recently come to light, and that these countries will be exposed to incalculable dangers and considerable losses, including the consequences of rising sea levels for many coastal areas in developing countries;
- d) Programme 5 of the Hyderabad Action Plan for least developed countries, countries in special need (small island developing states, low-lying coastal countries and landlocked developing countries), emergency telecommunications and climate-change adaptation,

considering further

- a) that telecommunications/ICTs play an important role in protecting the environment and in promoting innovative and sustainable development activities at low risk to the environment;
- b) that the role of telecommunications/ICTs in tackling the challenge of climate change encompasses a wide array of activities, including, but not limited to: the promotion of telecommunications/ICTs as alternatives to other technologies that consume more energy; the development of energy-efficient devices, applications and networks; the development of energy-efficient working methods; the implementation of satellite and ground-based remote-sensing platforms for environmental observation, including weather monitoring; and the use of telecommunications/ICTs to warn the public of dangerous weather events and provide communication support for governmental and non-governmental organization aid providers to contribute to the reduction of GHG emissions;
- c) that remote-sensing applications on board satellites and other radiocommunication systems are important tools for climate monitoring, environmental observation, disaster prediction, detection of illegal deforestation, and ~~the~~ detection and mitigation of the negative effects of climate change;
- d) the role ITU can play in promoting the use of ICTs to mitigate climate-change effects, and that the ~~strategic plan~~Strategic Plan for the Union for ~~2012-2015~~2016-2019 gives clear priority to combating climate change using ICTs;

e) that the use of telecommunications/ICTs provides increased opportunities to reduce GHG emissions generated by non-ICT sectors through the utilization of telecommunications/ICTs in ways that replace services or increase efficiency of the sectors concerned,

aware

a) that telecommunications/ICTs also contribute to emissions of GHG, a contribution which, although relatively small, will grow with the increased use of telecommunications/ICTs, and that the necessary priority must be given to reducing GHG emissions;

b) that developing countries face additional challenges in addressing the effects of climate change, including natural disasters related to climate change;

c) that developing countries are facing serious challenges in establishing new ICT facilities into their national networks, hence require intensive ITU individual country guidance and assistance, which varies from one Region to another and between countries,

bearing in mind

a) that countries have ratified the United Nations Framework Convention on Climate Change ~~(UNFCCC)~~ Protocol and have committed to reduce their emission levels of GHG to targets that are mainly set below their 1990 levels;

b) that the countries that have submitted plans in response to the Copenhagen Accord have specified which steps they are prepared to take to reduce their carbon intensity in the current decade,

noting

a) that the current ITU-T Study Group 5 is the lead ITU-T study group responsible for studies on methodologies for evaluating telecommunication/ICT effects on climate change, for publishing guidelines for using ICTs in an eco-friendly way, for studying energy efficiency of the power feeding systems, for studying ICT environmental aspects of electromagnetic phenomena, and for studying, assessing and analysing safe, low-cost social recirculation of telecommunication/ICT equipment through recycling and reuse;

b) ~~Question 24/2 of ITU-D~~ Study Group 2 ~~of the ITU Telecommunication Development Sector (ITU-D)~~ Question 24/2, on ICTs and climate change, adopted by ~~the~~ WTDC-10 (Hyderabad, 2010);

c) that ITU ~~recommendations~~ Recommendations that focus on energy-saving systems and applications can play a critical role in the development of telecommunications/ICTs, by promoting the adoption of recommendations for enhancing the use of telecommunications/ICTs to serve as an effective cross-cutting tool to measure and reduce GHG emissions across economic and social activities;

d) the leadership of ~~the ITU Radiocommunication Sector (ITU-R)~~, in collaboration with the ITU membership, in continuing to support studies on the use of radiocommunication systems, including remote-sensing applications, to improve climate monitoring and disaster prediction, detection and relief;

e) that there are other international bodies that are working on climate-change issues, including ~~UNFCCC~~ the United Nations Framework Convention on Climate Change, and that ITU should collaborate, within its mandate, with those entities;

f) that several countries have committed to a 20 per cent reduction in GHG emissions both in the ICT sector and in the use of ICTs in other sectors by 2020, against 1990 levels,

resolves

that ITU, within its mandate and in collaboration with other organizations, will demonstrate its leadership in applying telecommunications/ICTs to address the causes and effects of climate change through the following:

- 1 to continue and further develop ITU activities on telecommunications/ICTs and climate change in order to contribute to the wider global efforts being made by the United Nations;
- 2 to encourage energy efficiency of telecommunications/ICTs in order to reduce the GHG emissions produced by the telecommunication/ICT sector;
- 3 to encourage the telecommunication/ICT sector to contribute, through its own improvement of energy efficiency and in the use of ICTs in other parts of the economy, to an annual reduction in GHG emissions;
- 4 to report on the level that the ICT sector has contributed to the reduction of GHG emissions in other sectors through a reduction of their energy consumption by applying ICTs, taking into account that the noble programme of GHG would not impede the overall Telecommunication/ICT development in developing countries;
- 5 to promote awareness of the environmental issues associated with telecommunication/ICT equipment design and encourage energy efficiency and the use of materials in the design and fabrication of telecommunication/ICT equipment in order to promote a clean and safe environment;
- 6 to include, as a priority, assistance to developing countries so as to strengthen their human and institutional capacity in promoting the use of telecommunications/ICTs to tackle climate change, as well as in areas such as the need for communities to adapt to climate change, as a key element of disaster-management planning,

instructs the Secretary-General, in collaboration with the Directors of the three Bureaux

- 1 to formulate a plan of action for the role of ITU, taking into account all relevant ITU resolutions, in conjunction with other relevant expert bodies/groups, and taking into account the specific mandate of the three ITU Sectors;
- 2 to ensure that the relevant ITU study groups responsible for ICTs and climate change implement the plan of action referred to in *instructs the Secretary-General, ~~in collaboration with the Directors of the three Bureaux~~* 1 above;
- 3 to liaise with other relevant organizations in order to avoid duplication of work and optimize the use of resources;
- 4 to ensure that ITU organizes workshops, seminars and training courses in developing countries at the regional level for the purpose of raising awareness and identifying key issues in order to generate best-practice guidelines;

5 to encourage Member States in the various regions to cooperate in sharing expertise and resources and identify a regional cooperation mechanism¹, including if required a regional centre, so as to assist all Member States in the region in measurement and training

6 to assist Member States in particular developing countries, including the least developed countries, small island developing states, landlocked developing countries and countries with economies in transition, in infrastructure development and capacity building, as well as assistance for establishing laboratories for energy efficiency measurement

~~57~~ to continue taking appropriate measures within the Union to contribute to the reduction of ~~the~~ carbon footprint (e.g. paperless meetings, videoconferences, etc.);

~~68~~ to report and oversee annually to the Council and to the next plenipotentiary conference on the progress made by ITU on implementation of this resolution;

~~79~~ to submit this resolution and other appropriate outcomes of the ITU activities to meetings of relevant organizations, including the UNFCCC, in order to reiterate the Union's commitment to sustainable global growth; and to ensure recognition of the importance of telecommunications/ICTs in mitigation and adaptation efforts as well as the critical role of ITU in this regard,

instructs the Directors of the three Bureaux, within the purview of their ~~mandates~~mandate

1 to continue the development of best practices and guidelines that will assist governments in the development of policy measures that could be used to support the ICT sector in reducing GHG emissions and promoting ICTs in other sectors;

2 to help in the promotion of research and development:

- to improve the energy efficiency of ICT equipment
- to measure climate change
- to mitigate the effects of climate change
- to adapt to the effects of climate change,

instructs the Director of the Telecommunication Standardization Bureau

1 to assist the lead ITU-T study group on ICTs and climate change (currently ~~ITU-T~~ Study Group 5), in collaboration with other bodies, in the development of methodologies to assess:

- i) the level of energy efficiency in the ICT sector and the application of telecommunications/ICTs in non-ICT sectors; and
- ii) the complete lifecycle GHG emissions of telecommunication/ICT equipment, in collaboration with other relevant bodies, in order to establish best practice in the sector against an agreed set of metrics to enable the benefits of reuse, refurbishment and recycling to be quantified in order to help achieve reductions in GHG emissions both in the telecommunication/ICT sector and in the use of ICTs in other sectors;

2 to promote the work of ITU and cooperate with United Nations~~UN~~ entities and others in activities related to climate change, working towards a progressive and measurable reduction in

¹ To be formalized by the relevant Regional meetings.

energy consumption and GHG emissions throughout the lifecycle of telecommunication/ICT equipment;

3 to utilize the current Joint Coordination Activity on ICT and on climate change in specialist and specific discussions with other industries, drawing upon the expertise existing in other forums, industrial sectors (and their relevant forums) and academia in order to:

- i) demonstrate ITU leadership in GHG reductions and energy savings in the ICT sector;
- ii) ensure that ITU actively leads in the application of ICTs in other industries and contributes to the reduction in GHG emissions,

invites Member States, Sector Members and Associates

1 to continue to contribute actively to ITU on ICTs and climate change;

2 to continue or initiate public and private programmes that include ICTs and climate change, giving due consideration to relevant ITU initiatives;

3 to support and contribute to the wider United Nations process on climate change;

4 to take necessary measures to reduce the effects of climate change by developing and using more energy-efficient ICT devices, applications and networks and through the application of ICTs in other fields;

5 to promote recycling and reuse of telecommunication/ICT equipment;

6 to continue to support the work of ITU-R in remote sensing (active and passive) for environmental observation and other radiocommunication systems that can be used to support climate monitoring, disaster prediction, alerting and response in accordance with relevant resolutions adopted by radiocommunication assemblies and world radiocommunication conferences.

ANNEX 2

MOD INS/82/2

RESOLUTION 130 (REV. ~~GUADALAJARA, 2010~~BUSAN, 2014)

Strengthening the role of ITU in building confidence and security in the use of information and communication technologies

The Plenipotentiary Conference of the International Telecommunication Union
(~~Guadalajara, 2010~~Busan, 2014),

recalling

- a) Resolution 130 (Rev. Antalya, 2006) of the Plenipotentiary Conference;
- b) Resolution 69 (Hyderabad, 2010) of the World Telecommunication Development Conference (WTDC), on the creation of national computer incident response teams (CIRTs), particularly for developing countries, and cooperation between them;
- c) that ITU Council Resolution 1305, adopted at its 2009 session, identified the security, safety, continuity, sustainability and robustness of the Internet as public policy issues that fall within the scope of ITU,

considering

- a) the crucial importance of information and communication infrastructures and their applications to practically all forms of social and economic activity;
- b) that, with the application and development of information and communication technologies (ICTs), new threats from various sources have emerged that have had an impact on confidence and security in the use of ICTs by all Member States, Sector Members and other stakeholders, including all users of ICTs, and on the preservation of peace and the economic and social development of all Member States, and that threats to and vulnerabilities of networks continue to give rise to ever-growing security challenges across national borders for all countries, in particular developing countries, including the least developed countries, small island developing states, landlocked developing countries and countries with economies in transition, while noting in this context the strengthening of ITU's role in building confidence and security in the use of ICTs and the need to further enhance international cooperation and develop appropriate existing national, regional and international mechanisms (for example, agreements, best practices, memorandums of understanding, etc);
- c) that the ITU Secretary-General has been invited to support the International Multilateral Partnership Against Cyber-Threats (IMPACT), the Forum for Incident Response and Security Teams (FIRST) and other global or regional cybersecurity projects, as appropriate, and all countries, particularly developing countries, have been invited to take part in their activities;
- d) the ITU Global Cybersecurity Agenda (GCA);

e) that, in order to protect these infrastructures and address these challenges and threats, coordinated national, regional and international action is required for prevention, preparation, response and recovery from computer security incidents, on the part of government authorities, at the national (including the creation of national CIRTs), and sub-national levels, the private sector and citizens and users, in addition to international and regional cooperation and coordination, and that ITU has a lead role to play within its mandate and competencies in this field;

f) the need for continual evolution in new technologies to support the early detection of, and coordinated and timely response to, events or incidents compromising computer security, or computer network security incidents that could compromise the availability, integrity and confidentiality of critical infrastructures in ITU Member States, and for strategies that will minimize the impact of such incidents and mitigate the growing risks and threats to which such platforms are exposed,

recognizing

a) that the development of ICTs has been and continues to be instrumental for the growth and development of the global economy, underpinned by security and trust;

b) that the World Summit on the Information Society (WSIS) affirmed the importance of building confidence and security in the use of ICTs and the great importance of multistakeholder implementation at the international level, and established Action Line C5 (Building confidence and security in the use of ICTs), with ITU identified in the Tunis Agenda for the Information Society as moderator/facilitator for the action line, and that this task has been carried out by the Union in recent years, for example under GCA;

c) that WTDC-10 has adopted the Hyderabad Action Plan and its Programme 2, on cybersecurity and ICT applications and IP-based network related issues, which identifies cybersecurity as a priority activity of the Telecommunication Development Bureau (BDT) and defines activities to be undertaken by BDT; and has also adopted Resolution 45 (Hyderabad, 2010), on mechanisms for enhancing cooperation on cybersecurity, including countering and combating spam, calling on the Secretary-General to bring the resolution to the attention of the next plenipotentiary conference for consideration and required action, as appropriate; and Resolution 69 (Hyderabad, 2010), on the creation of national CIRTs, particularly for developing countries, and cooperation between them; and that moreover, a national IP-based public network security centre for developing countries is under study by Study Group 17 of the ITU Telecommunication Standardization Sector (ITU-T);

d) that, to support the creation of national CIRTs in Member States where these are needed and are currently absent, the World Telecommunication Standardization Assembly (WTSA) adopted Resolution 58 (Johannesburg, 2008), on encouraging the creation of national CIRTs, particularly for developing countries; and WTDC-10 adopted Resolution 69 (Hyderabad, 2010), on the creation of national CIRTs, particularly for developing countries, and cooperation between them;

e) § 15 of the Tunis Commitment, which states that: "*Recognizing the principles of universal and non-discriminatory access to ICTs for all nations, the need to take into account the level of social and economic development of each country, and respecting the development-oriented aspects of the information society, we underscore that ICTs are effective tools to promote peace, security and stability, to enhance democracy, social cohesion, good governance and the rule of law,*

at national, regional and international levels. ICTs can be used to promote economic growth and enterprise development. Infrastructure development, human capacity building, information security and network security are critical to achieve these goals. We further recognize the need to effectively confront challenges and threats resulting from use of ICTs for purposes that are inconsistent with objectives of maintaining international stability and security and may adversely affect the integrity of the infrastructure within States, to the detriment of their security. It is necessary to prevent the abuse of information resources and technologies for criminal and terrorist purposes, while respecting human rights", and that the challenges created by this misuse of ICT resources have only continued to increase since WSIS;

- f) that Member States, in particular developing countries, in the elaboration of appropriate and workable legal measures relating to protection against cyberthreats at the national, regional and international levels, may require assistance from ITU in establishing technical and procedural measures, aimed at securing national ICT infrastructures, on request from these Member States, while noting that there are a number of regional and international initiatives which may support these countries in elaborating such legal measures;
- g) Opinion 4 (Lisbon, 2009) of the World Telecommunication Policy Forum, on collaborative strategies for creating confidence and security in the use of ICTs;
- h) the relevant outcomes of WTSA-08, notably:
 - i) Resolution 50 (Rev. Johannesburg, 2008), on cybersecurity;
 - ii) Resolution 52 (Rev. Johannesburg, 2008), on countering and combating spam;
- i) that Resolution 69 (Hyderabad, 2010) provides for the establishment of CIRTs,
aware
 - a) that ITU and other international organizations, through a variety of activities, are examining issues related to building confidence and security in the use of ICTs, including stability and measures to combat spam, malware, etc., and to protect personal data and privacy;
 - b) that ITU-T Study Group 17, Study Groups 1 and 2 of the Telecommunication Development Sector (ITU-D) and other relevant ITU study groups continue to work on technical means for the security of information and communication networks, in accordance with Resolutions 50 and 52 (Rev. Johannesburg, 2008) and Resolutions 45 (Rev. Hyderabad, 2010) and 69 (Hyderabad, 2010);
 - c) that ITU has a fundamental role to play in building confidence and security in the use of ICTs;
 - d) that Opinion 4 (Lisbon, 2009), on collaborative strategies for creating confidence and security in the use of ICTs, invites ITU to pursue, principally on the basis of membership contributions and direction, further initiatives and activities, in close partnership with other concerned national, regional and international entities and organizations, consistent with Resolution 71 (Rev. Guadalajara, 2010) of this conference, on the strategic plan for the Union for 2012-2015, and all other relevant ITU resolutions;
 - e) that ITU-D Study Group 1 continues to carry out the studies called for in ITU-D Question 22-1/1 (Securing information and communications networks: best practices for developing a culture of cybersecurity), which has been reflected in United Nations General Assembly Resolution 64/211,

noting

- a) that, as an intergovernmental organization with private-sector participation, ITU is well-positioned to play an important role, together with other relevant international bodies and organizations, in addressing threats and vulnerabilities, which affect efforts to build confidence and security in the use of ICTs;
- b) §§ 35 and 36 of the Geneva Declaration of Principles and § 39 of the Tunis Agenda, on building confidence and security in the use of ICTs;
- c) that although there are no universally agreed upon definitions of spam and other terms in this sphere, spam was characterized by ITU-T Study Group 2, at its June 2006 session, as a term commonly used to describe unsolicited electronic bulk communications over e-mail or mobile messaging (SMS, MMS), usually with the objective of marketing commercial products or services;
- d) the Union's initiative concerning IMPACT and FIRST;
- e) that BDT Programme 2 in the Hyderabad Action Plan was adopted with the understanding of the delegations to WTDC-10 that BDT does not draft laws,

bearing in mind

the work of the ITU established by Resolutions 50 and 52 (Rev. Johannesburg, 2008) and 58 (Johannesburg, 2008); Resolutions 45 (Rev. Hyderabad, 2010) and 69 (Hyderabad, 2010); BDT Programme 2 in the Hyderabad Action Plan; the relevant ITU-T Questions on technical aspects regarding the security of information and communication networks; and ITU-D Question 22-1/1,

resolves

- 1 to continue to give this work high priority within ITU, in accordance with its competences and expertise, and to provide governments, in cooperation with other stakeholders, within their respective roles, to develop necessary safety and appropriate measures for preventing cybercrime, in obtaining common understanding and/or agreement on a Regional basis, aside from legislation for the investigation and prosecution of cybercrime, at a national, regional and international level pursuant to considering a) of Resolution 181 (Guadalajara 2010) and considering b) of this Resolution;
- 2 to continue to encourage and facilitate governments to develop measures to combat misuse as elaborated under the "Notes with appreciation" of UNGA Resolution number 55/63:
 - a) States should ensure that their laws and practice eliminate safe havens for those who criminally misuse information technologies;
 - b) Law enforcement cooperation in the investigation and prosecution of international cases of criminal misuse of information technologies should be coordinated among all concerned States;
 - c) Information should be exchanged between States regarding the problems that they face in combating the criminal misuse of information technologies;
 - d) Law enforcement personnel should be trained and equipped to address the criminal misuse of information technologies;
 - e) Legal systems should protect the confidentiality, integrity, and availability of data and computer systems from unauthorized impairment and ensure that criminal abuse is penalized;

- f) Legal systems should permit the preservation of and quick access to electronic data pertaining to particular criminal investigations;
- g) Mutual assistance regimes should ensure timely investigation of the criminal misuse of information technologies and the timely gathering and exchange of evidence in such cases;
- h) The general public should be made aware of the need to prevent and combat the criminal misuse of information technologies;
- i) To the extent practicable, information technologies should be designed to help to prevent and detect criminal misuse, trace criminals and collect evidence;
- j) The fight against the criminal misuse of information technologies requires the development of solutions taking into account both the protection of individual freedoms and privacy and the preservation of the capacity of Governments to fight such criminal misuse.

23 to give high priority to the work in ITU described under *bearing in mind* above, in accordance with its competences and areas of expertise, while being mindful of the need to avoid duplicating work among the Bureaux or the General Secretariat or work which more appropriately falls within the mandates of other intergovernmental and relevant international bodies;

34 that ITU shall focus resources and programmes on those areas of cybersecurity within its core mandate and expertise, notably the technical and development spheres, and not including areas related to Member States' application of legal or policy principles related to national defence, national security, content and cybercrime, which are within their sovereign rights, although this does not however exclude ITU from carrying out its mandate to develop technical recommendations designed to reduce vulnerabilities in the ICT infrastructure, nor from providing all the assistance that was agreed upon at WTDC-10, including Programme 2 activities such as "*assisting Member States, in particular developing countries, in the elaboration of appropriate and workable legal measures relating to protection against cyberthreats*" and in activities under Question 22-1/1,

instructs the Secretary-General and the Directors of the Bureaux

1 to continue to review:

- i) the work done so far in the three Sectors, under the ITU Global Cybersecurity Agenda initiative and in other relevant organizations, and initiatives to address existing and future threats in order to build confidence and security in the use of ICTs, such as the issue of countering spam, which is growing and on the rise;
- ii) the progress achieved in the implementation of this resolution, with ITU continuing to play a lead facilitating role as the moderator/facilitator for Action Line C5, with the help of the advisory groups, consistent with the ITU Constitution and the ITU Convention;

2 consistent with Resolution 45 (Rev. Hyderabad, 2010) to work towards the preparation of a document relating to a possible memorandum of understanding (MoU), including the legal analysis of the MoU and its scope of application, among interested Member States, to strengthen cybersecurity and combat cyberthreats, in order to protect developing countries and any country interested in acceding to this possible MoU, with the outcome of the meeting to be submitted to the Council session in 2011 for its consideration and any action, as appropriate;

3 to facilitate access to tools and resources, within the available budget, required for enhancing confidence and security in the use of ICTs for all Member States, consistent with WSIS provisions on universal and non-discriminatory access to ICTs for all nations;

4 to continue to maintain the cybersecurity gateway as a way to share information on national, regional and international cybersecurity-related initiatives worldwide;

5 to report annually to the Council on these activities and to make proposals as appropriate;

6 to further enhance coordination between the study groups and programmes concerned,

instructs the Director of the Telecommunication Standardization Bureau

1 to intensify work within existing ITU-T study groups in order to:

- i) address existing and future threats and vulnerabilities affecting efforts to build confidence and security in the use of ICTs, by developing reports or recommendations, as appropriate, with the goal of implementing the resolutions of WTSA-08, particularly Resolutions 50 and 52 (Rev. Johannesburg, 2008) and 58 (Johannesburg, 2008), allowing work to begin before a Question is approved;
- ii) seek ways to enhance the exchange of technical information in these fields, promote the adoption of protocols and standards that enhance security, and promote international cooperation among appropriate entities;
- iii) facilitate projects deriving from the outcomes of WTSA-08, in particular:
 - a) Resolution 50 (Rev. Johannesburg, 2008), on cybersecurity;
 - b) Resolution 52 (Rev. Johannesburg, 2008), on countering and combating spam;

2 to continue collaboration with relevant organizations with a view to exchanging best practices and disseminating information through, for example, joint workshops and training sessions and joint coordination activity groups, and, by invitation, through written contributions from relevant organizations,

instructs the Director of the Telecommunication Development Bureau

1 to develop, consistent with the results of WTDC-10 and pursuant to Resolution 45 (Rev. Hyderabad, 2010), Resolution 69 (Hyderabad, 2010) and Programme 2 in the Hyderabad Action Plan, the project for enhancing cooperation on cybersecurity and combating spam in response to the needs of developing countries, in close collaboration with the relevant partners;

2 upon request, to support ITU Member States in their efforts to build capacity, by facilitating Member States' access to resources developed by other relevant international organizations that are working on national legislation to combat cybercrime; supporting ITU Member States' national and regional efforts to build capacity to protect against cyberthreats/cybercrime, in collaboration with one another; consistent with the national legislation of Member States referred to above, assisting Member States, in particular developing countries, in the elaboration of appropriate and workable legal measures relating to protection against cyberthreats at national, regional and international levels; establishing technical and procedural measures, aimed at securing national ICT infrastructures, taking into the account the work of the relevant ITU-T study groups and, as appropriate, other relevant organizations; establishing organizational structures, such as CIRTs, to identify, manage and respond to cyberthreats, and cooperation mechanisms at the regional and international level;

3 to provide the necessary financial and administrative support for this project within existing resources, and to seek additional resources (in cash and in kind) for the implementation of this project through partnership agreements;

4 to ensure coordination of the work of this project within the context of ITU's overall activities in its role as moderator/facilitator for WSIS Action Line C5, and to eliminate any duplication regarding this important subject with the General Secretariat and ITU-T;

5 to coordinate the work of this project with that of the ITU-D study groups on this topic, and with the relevant programme activities and the General Secretariat;

6 to continue collaboration with relevant organizations with a view to exchanging best practices and disseminating information through, for example, joint workshops and training sessions;

7 to report annually to the Council on these activities and make proposals as appropriate,
further instructs the Director of the Telecommunication Standardization Bureau and the Director of the Telecommunication Development Bureau

each within the scope of his responsibilities:

1 to implement relevant resolutions of both WTSA-08 and WTDC-10, including Programme 2 on providing support and assistance to developing countries in building confidence and security in the use of ICTs;

2 to identify and promote the availability of information on building confidence and security in the use of ICTs, specifically related to the ICT infrastructure, for Member States, Sector Members and relevant organizations;

3 without duplicating the work under ITU-D Question 22-1/1, to identify best practices in establishing CIRTs, to prepare a reference guide for the Member States and, where appropriate, to contribute to Question 22-1/1;

4 to cooperate with relevant organizations and other relevant international and national experts, as appropriate, in order to identify best practices in the establishment of CIRTs;

5 to take action with a view to new Questions being examined by the study groups within the Sectors on the establishment of confidence and security in the use of ICT;

6 to support strategy, organization, awareness-raising, cooperation, evaluation and skills development;

7 to provide the necessary technical and financial support, within the constraints of existing budgetary resources, in accordance with Resolution 58 (Johannesburg, 2008);

8 to mobilize appropriate extrabudgetary resources, outside the regular budget of the Union, for the implementation of this resolution, to help developing countries,

instructs the Secretary-General

pursuant to his initiative on this matter:

1 to propose to the Council, taking into account the activities of the three Sectors in this regard, an action plan to strengthen the role of ITU in building confidence and security in the use of ICTs;

2 to cooperate with relevant international organizations, including through the adoption of MoUs, subject to the approval of the Council in this regard, in accordance with Resolution 100 (Minneapolis, 1998) of the Plenipotentiary Conference,

requests the Council

to include the report of the Secretary-General in the documents sent to Member States in accordance with No. 81 of the Convention,

invites Member States

to consider joining appropriate competent international and regional initiatives for enhancing national legislative frameworks relevant to the security of information and communication network,

invites Member States, Sector Members and Associates

- 1 to contribute on this subject to the relevant ITU study groups and to any other activities for which the Union is responsible;
- 2 to contribute to building confidence and security in the use of ICTs at the national, regional and international levels, by undertaking activities as outlined in § 12 of the Geneva Plan of Action, and to contribute to the preparation of studies in these areas;
- 3 to promote the development of educational and training programmes to enhance user awareness of risks in cyberspace.

ANNEX 3

PROPOSAL ON ITU STABLE CONSTITUTION

1. Introduction

Article 52 of the Constitution requires that the Constitution and the ITU Convention be simultaneously ratified by any signatory Member State in accordance with its constitutional rules, while ratification, acceptance, approval of or accession to the amendments to the Constitution and Convention is a complex and lengthy process for ITU Member States, in particular for those Member States whose national language is not one of the six ITU official languages.

The numerous amendments and the need to go through a burdensome ratification process have resulted, from a legal standpoint, in an undermining of one of the cardinal/fundamental principles of the law of international organizations, namely the integrity and homogeneity of the supreme normative instrument applicable to all the Member States of an intergovernmental organization such as ITU.

A consensus has emerged among the ITU Member States to prepare the draft of such a stable Constitution in order to be submitted to the 2014 plenipotentiary conference for its consideration and necessary actions, and that apart from the stable Constitution, the remaining provisions could be transferred to another "document/convention" which would not be subject to ratification, acceptance, approval or accession, taking into account the above mentioned difficulties.

The Council Working Group on a Stable ITU Constitution established by the extraordinary session of Council in 2010 pursuant to Resolution 163 (Guadalajara, 2010), identified the following key issues, whether:

- (1) the Stable Constitution will be a new treaty or an amendment to the current Constitution;**
Certain provisions of the stable Constitution would need to be further reviewed and modified, by the Plenipotentiary Conference whether the stable Constitution would constitute an amendment to the current Constitution or, a new treaty that would entirely abrogate and replace the current Constitution.
- (2) the General Provisions and Rules be regrouped, under a single document, with General Rules of Conferences, Assemblies and Meetings of the Union;**
Although not all are of the same opinion, that the current General Rules of Conferences, Assemblies and Meetings of the Union could be regrouped within the framework of a single document, with the General Provisions and Rules, in the event of such regrouping, certain provisions of the draft stable Constitution and draft General Provisions and Rules would need to be further reviewed and modified, as necessary, by the Plenipotentiary Conference.
- (3) the nature, binding effect and order of precedence (hierarchy) of the General Provisions and Rules could be set forth in a new Article 4A of the stable Constitution;**
It would be advisable to create a new Article 4A, titled "General Provisions and Rules," under the draft stable Constitution, which could set forth the nature, binding effect and order of hierarchy of the General Provisions and Rules. This would serve a similar purpose and effect

of Article 4 of the draft stable Constitution; setting forth, inter alia, the nature and hierarchy of the treaty instruments of the Union.

One Member State was of the opinion that the binding nature of the General Provisions and Rules, as set forth in the text of current CS24 and proposed new Article 4A of the draft stable Constitution, could be worded with a spirit similar to Article 26 of the General Provisions and Rules.

(4) there are possible unintended consequences of requiring compliance with the General Provisions and Rules;

Annex II the Group Report retained within square brackets provisions (or portions thereof) of the draft stable Constitution: CS92, CS115, CS142, CS145A, CS147, CS193, CS194 and CS207.

Consequently, if each reference to the Convention in the above-mentioned provisions were substituted with a reference to the General Provisions and Rules, then decisions of conferences and assemblies of the Sectors, as well as decisions of world conferences on international telecommunications (CS147) and special and regional arrangements between Member States (CS193 and CS194), would become subordinate to a non-treaty instrument (i.e., the General Provisions and Rules).

(5) the General Provisions and Rules should include an article with a spirit and effect similar to those of Article 6 of the draft stable Constitution;

The consequential changes to be made to Article 6 of the draft stable Constitution, it would not be appropriate to mechanically replace cross-references to the Convention found in such article with cross-references to the General Provisions and Rules.

As Article 6 of the draft stable Constitution deals with the execution of instruments (i.e. treaties) of the Union, and the fact that the General Provisions and Rules will not have treaty status, it is concluded as under paragraph 3.19 of Group report.

Certain members were of the opinion that a new article (Article 32A), with a spirit and effect similar to those of Article 6 of the draft stable Constitution, should be introduced under the General Provisions and Rules, as follows:

Article 32A

Execution of these General Provisions and Rules

The Member States are bound to abide by the relevant provisions of these General Provisions and Rules in all telecommunication offices and stations established or operated by them which engage in international services or which are capable of causing harmful interference to radio services of other countries, except in regard to services exempted from these obligations in accordance with [Article 48] of the Constitution.

The Member States are also bound to take the necessary steps to impose the observance of the relevant provisions of these General Provisions and Rules upon operating agencies authorized by them to establish and operate telecommunications and which engage in international services or which operate stations capable of causing harmful interference to the radio services of other countries.”

(6) All financial provisions included in Article 28 of the current Constitution remain in the stable Constitution;

The provisions GP&R469A to GP&R469M of the draft General Provisions and Rules in Annex II to the Group Report, felt by certain members as operational and procedural nature, were retained within square brackets.

However, after adoption of Annex I, other members expressed that the provisions identified above should not be separated from the remaining provisions of Article 28 of the draft stable Constitution.

Certain members of the Group mentions that the provisions in Article 28 of the current Constitution are of specific importance both for the Union and for the Member States and the Sector Members, and also specific provisions in Article 55 of the Constitution for the amendment and acceptance of changes to the Constitution, need to be maintained and applied for any change to Article 28. They also stated that the provisions of Article 42 of the current Convention (now Article 34 in the General Provisions and Rules) would not be sufficient to safeguard the interest of the Member States and the Sector Members in this case.

(7) The amendment procedures to be applied to the stable Constitution and to the General Provisions and Rules, respectively;

Article 55 of the draft stable Constitution, as well as Article 42 of the current Convention (now Article 34 of the draft General Provisions and Rules), remain unchanged and within square brackets in Annex II to the Group Report; pending the Plenipotentiary Conference's decision concerning the amendment procedures applicable to the stable Constitution and the General Provisions and Rules, respectively, although two Member States contributing to the work of the Group submitted specific proposals concerning the manner in which Article 55 could be amended.

(8) The "Settlement of Disputes" provisions contained in CS233 of the draft stable Constitution apply to the General Provisions and Rules;

In Annex II the cross-references to the General Provisions and Rules in CS233 is retained within square brackets.

Certain Members were of the opinion that CS233 of the draft stable Constitution would apply to the settlement of disputes among Member States relating to the interpretation or application of treaty instruments of the Union, only. However, it would not apply to the settlement of disputes among Member States relating to the interpretation or application of non-treaty documents of the Union, such as the General Provisions and Rules.

(9) Definitions contained in Annexes to the draft stable Constitution and draft General Provisions and Rules should be further reviewed and transferred to the appropriate document;

Article 5 of the draft stable Constitution, as well as the respective Annexes to the draft stable Constitution and draft General Provisions and Rules, were maintained unchanged and within square brackets in Annex II, in order to highlight that such Article 5 and Annexes would need

to be carefully reviewed and modified, as necessary, once the substantially final texts of the stable Constitution and of the General Provision and Rules had been agreed.

Certain members were of the opinion that all definitions contained in the respective Annexes to the current Constitution and the current Convention should be transferred, in their entirety, to an Annex to the stable Constitution. Meanwhile, other members considered that only those definitions for terms used in the Constitution or the Administrative Regulations should be transferred to an Annex to the stable Constitution; however, definitions for terms used only in the General Provisions and Rules (but not in any treaty instruments of the Union) should be retained in an Annex to the General Provisions and Rules.

(10) All dispositions included in new Chapter VII of the General Provisions and Rules be transferred to the stable Constitution;

The new Chapter VII (“Various Provisions Related to the Operation of Telecommunication Services”) of the draft General Provisions and Rules was retained by the Group within square brackets in Annex II to the Group Report.

Taking into account the above results and Report of the Council Working Group on Stable Constitution and the Council 2013 considerations and that no decision was made except to forward the Report of the Group to ITU Membership together with cross references to the four contributions from Member States and the summary record of the Council, Indonesia submits the following Proposal with its consideration.

2. Proposal

While appreciating the efforts of the CWG-STB-CS, established pursuant to Resolution 163 (Guadalajara, 2010), for ensuring a stable Constitution, its outcome reveals that the efforts could instead create a less stable legal instrument, as retaining, adding and or changing treaty texts of the present Constitution into a “Stable Constitution” and moving part of it to a new non-treaty and non-binding document, could undermine the main purpose of the existing binding treaty status of the present Constitution and Convention.

Indonesia is of the opinion that no fundamental change should be introduced in the present Constitution and Convention, and hence, suppression of Resolution **163 (Guadalajara, 2010)**.

SUP INS/82/3

RESOLUTION 163 (GUADALAJARA, 2010)

**Establishment of a Council working group on a
stable ITU Constitution**

The Plenipotentiary Conference of the International Telecommunication Union
(Guadalajara, 2010),
