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FREEDOM OF EXPRESSION AND THE RIGHT TO INFORMATION

Amendments to the revised preliminary draft resolution submitted within the statutory deadline by the delegations of Belgium, Canada, China, Congo, Cuba, France, Indonesia, the Islamic Republic of Iran, Morocco, the Philippines, Spain, Switzerland, and the United Arab Emirates

PREAMBLE

Paragraph 2

Amend to read as follows:

(2) Further recalling Articles 19 **and 20** of the International Covenant on Civil and Political Rights (1966),

(China)

New paragraph 5bis

Add a new paragraph after paragraph 5, to read as follows:

(5bis) **Taking note of General Assembly Resolution 62/154 calling on Member States to combat defamation of religions and religious hatred,**

(Islamic Republic of Iran)

Paragraph 6

Amend to read as follows:

(6) ~~Welcoming~~ **Taking note of** the Chapultepec Declaration adopted by the Hemisphere Conference on Free Speech (1994),

(China)

New paragraph 6bis

Add a new paragraph after paragraph 6, to read as follows:

(6bis) **Recalling the 63rd General Conference of the International Federation of Library Associations and Institutions (IFLA) held in Copenhagen on access to information and freedom of expression,**

(Morocco)

Paragraph 7

Amend to read as follows:

(7) ~~Welcoming~~ **Taking note of** the Aarhus Convention (1998) adopted by the Member States of the UN Economic Commission for Europe and the European Union,
(China)

New paragraph 8bis and 8ter

Add two new paragraphs after paragraph 8 to read, as follows:

(8bis) Welcoming Commission on Human Rights resolution 1998/42 adopted on 17 April 1998 on the right to freedom of opinion and expression,

(8ter) Recalling article 30 of constitutional rights and guarantees, which provides that freedom of oral and written expression is a guarantee in accordance with the law, and that each citizen has the right to access information,

(Morocco)

New paragraph 9bis

Add a new paragraph after paragraph 9, to read as follows:

(9bis) Underscoring the importance of increasing contacts at all levels in order to deepen dialogue and reinforce understanding among different cultures, religions, beliefs and civilizations, and welcoming in this regard the Declaration and Programme of Action adopted by the Movement of Non-Aligned Countries Ministerial Meeting on Human Rights and Cultural Diversity, held in Tehran on 3 and 4 September 2007,

(Islamic Republic of Iran)

Add a new paragraph after paragraph 9, to read as follows:

(9bis) Recalling that freedom of expression is a fundamental right recognized in UN General Assembly Resolution 59(I), Resolution 104 adopted by the UNESCO General Conference and enshrined in all national constitutions,

(Morocco)

New paragraphs 12bis and 12ter

Add two new paragraphs after paragraph 12, to read as follows:

(12bis) Recalling the symposium on Freedom of Expression: Development, Democracy and Dialogue organized by UNESCO on 29 October 2008 marking the 60th anniversary of the Universal Declaration of Human Rights,

(12ter) Noting the Inter-American Declaration of Principles on Freedom of Expression approved by the Inter-American Commission on Human Rights,

(Morocco)

New paragraphs 12bis, 12ter and 12quater

Add three new paragraphs after paragraph 12, to read as follows:

(12bis) ***Noting the outcome of the World Summit on the Information Society, held in two installments : one in Geneva in 2003 and the other in Tunisia in 2005, which seeks to build an information society with a humane and inclusive dimension that is conducive to development, in which each individual has the possibility to create, obtain, use and share information and knowledge, in keeping with the aims and principles of the Charter of the United Nations and the Universal Declaration of Human Rights,***

(12ter) ***Welcoming the Medellin Declaration on Securing the Safety of Journalists and Combating Impunity adopted on the occasion of the UNESCO Conference on Press Freedom, Safety of Journalists and Impunity in 2007,***

(12quater) ***Recalling the documents of the Council of Europe Committee of Ministers on human rights in the information society, notably Recommendation CM/Rec(2007)11 on promoting freedom of expression and information in the new information and communication environment, Recommendation CM/Rec(2007)16 on measures aimed at promoting the public service value of the Internet and Recommendation CM/Rec(2008)6 on measures aimed at promoting respect for freedom of expression and information with regard to Internet filters,***

(Switzerland)

Paragraph 13

Delete existing paragraph and replace by a new paragraph, to read as follows:

(13) ***Recognizing that exercising the right to freedom of expression carries with it special duties and responsibilities and may therefore be subject to certain restrictions provided by law, which are necessary to ensure respect for the rights of others or for the protection of national security or the public order,***

(China)

Amend to read as follows:

(13) ***Believing that the people's right to information is an indispensable element of a functioning democracy and that access to information is an essential tool for strengthening government accountability, transparency and adherence to the rule of law,***

(Philippines)

Amend to read as follows:

(13) ***Believing that access to information, as well as the generation and dissemination of information, are essential tools for strengthening government accountability, transparency and adherence to the rule of law,***

(Spain)

New paragraph 13bis

Add a new paragraph after paragraph 13, to read as follows:

(13 bis) ***Believing* furthermore that the new digital communication tools, notably the Internet, may constitute powerful tools likely to facilitate the exercise of freedom of expression and information, transparency and diversity of opinions in the information society,**

(Switzerland)

Paragraph 14

Delete the existing paragraph.

(China)

Paragraph 15

Amend to read as follows:

(15) *Recognizing also* that freedom of expression should not be used to spread or **promote** ~~advocate~~ hatred based on nationality, race or religion, **gender, sexual orientation, or other analogous grounds** thereby inciting discrimination, hostility or violence,

(Canada)

New paragraph 15bis

Add a new paragraph after paragraph 15, to read as follows:

(15bis) ***Convinced* that the protection of journalistic sources is an indispensable condition of press freedom,**

(Belgium)

Paragraph 16

Amend to read as follows:

(16) *Expressing concern* that in some parts of the world, citizens are not sufficiently informed about their rights concerning freedom of expression and access to information, **in most cases due to underdevelopment and lack of facilities,**

(China)

New paragraph 16bis

Add a new paragraph after paragraph 16, to read as follows:

(16bis) ***Expressing concern* that denial of access to information on matters of public concern remains widespread in many government bureaucracies,**

(Philippines)

Paragraph 19

Amend to read as follows:

(19) *Concerned*, however, **that computer systems and other information technologies can be misused or abused to spread racist or xenophobic propaganda**, ~~by the fact that certain media, notably computer systems, can be used ill-advisedly or abusively to spread racist or xenophobic propaganda,~~

(Canada)

Amend to read as follows:

(19) *Concerned*, nevertheless, by the fact that certain media, notably the ~~computer systems~~ **new digital communication tools**, can be misused or abused, to spread racist or xenophobic propaganda,

(Switzerland)

Paragraph 20

Amend to read as follows:

(20) *Convinced* of the need to strike a ~~healthy~~ balance between **the protection of freedom of expression and the protection of potentially vulnerable groups, including those identified by** ~~on the one hand and the fight against incitement to hatred based on~~ race, gender, religion or nationality, **age, sexual orientation, and other analogous groups, from harm caused by incitement to hatred, discrimination and violence** ~~and against affronts to human dignity and the protection of minors on the other,~~

(Canada)

Amend to read as follows:

(20) *Convinced* of the need to ~~strike a healthy balance between freedom of expression on the one hand and the fight against incitement to hatred based on race, gender, religion or nationality and against affronts to human dignity and the protection of minors on the other~~ **define clearly in the law the limits to freedom of expression that are necessary and appropriate in any democratic society,**

(Switzerland)

New Paragraph 20bis

Add a new paragraph after paragraph 20, to read as follows:

(20bis) *Aware* that appropriate measures should be taken, especially in the new information and communication environment, to protect minors from the risk of harmful effects of content and behaviour likely to negatively affect their physical well-being,

(Switzerland)

Paragraph 21

Move after paragraph 18 and amend to read as follows:

(21) *Considering* that education and literacy are **crucial to the full enjoyment of access to information rights**, ~~prerequisites of exercising the right to information~~,
(Canada)

Amend to read as follows:

(21) *Considering* that education ~~and~~ literacy **and mastering new information and communication technologies, notably the Internet**, are prerequisites of exercising the right to information **in the information society**,
(Switzerland)

New paragraphs 21bis and 21ter

Add two new paragraphs after paragraph 21, to read as follows:

(21bis) *Convinced* that **information and communication technologies are essential to enjoyment of freedom of expression and the right to information**,

(21ter) *Concerned* about the widening of the digital divide between developing countries and developed countries, which impedes equal enjoyment of freedom of expression and the right to information by all people,
(China)

OPERATIVE PART

Operative paragraph 2

Amend to read as follows:

2. *Underscores* that freedom of expression, ~~freedom of the press~~, and freedom of religion are **essential** ~~precious~~ to democracy and need to be equally safeguarded and considered as a fundamental part of one's identity;
(Canada)

Amend to read as follows:

2. *Underscores* that freedom of expression ~~freedom of the press~~, **and access to information** ~~and freedom of religion~~ are precious to democracy and need to be equally safeguarded **in all appropriate ways in the interest of national security, public safety and social harmony** ~~and considered as a fundamental part of one's identity~~;
(China)

Amend to read as follows:

2. *Underscores* that freedom of expression, freedom of the press, and freedom of religion are **essential** ~~precious~~ to democracy and need to be equally safeguarded and considered as a fundamental part of one's identity;
(France)

Operative paragraph 3

[Does not affect English]

New operative paragraph 3bis

Add a new paragraph after operative paragraph 3, to read as follows:

- 3bis. Welcomes the adoption and modernization of rights-based access to information legislation throughout the world;**
(Canada)

Operative paragraph 5

Amend to read as follows:

5. *Encourages* those parliaments that have not already done so to enact freedom of information legislation at the earliest opportunity; **and underscores the need for the parliaments of States that already have such a legal framework in place to ensure that it is effectively implemented;**
(Congo)

New operative paragraph 5bis

Add a new paragraph after operative paragraph 5, to read as follows:

- 5bis. Invites parliaments to invest in the promotion of freedom of expression and the right to information;**
(Congo)

Operative paragraph 6

Amend to read as follows:

6. *Urges* parliaments to adopt the legislative measures needed to criminalize **incitement to hatred** ~~under their domestic law incitement to hatred~~ based on race, gender, religion or nationality, **or other analogous grounds, and the possession and trafficking of child pornography through any computer system or information technologies;** ~~affronts to human dignity; and the dissemination or transmission of child pornography through any medium or computer system;~~
(Canada)

Amend to read as follows:

6. *Urges* parliaments to adopt the legislative measures needed to criminalize under their domestic law incitement to hatred based on race, gender, religion or nationality; affronts to human dignity, **ensuring at all times respect for freedom of expression, religious freedom, freedom of sexual orientation, freedom to profess no faith or to change or abandon one's former faith**; and the dissemination or transmission of child pornography through any medium or computer system;

(Spain)

New operative paragraph 6bis

Add a new paragraph after operative paragraph 6, to read as follows:

- 6bis. Invites parliaments to take legislative action with a view to ensuring the protection of journalistic sources;**

(Belgium)

Operative paragraph 7

Amend to read as follows:

7. *Expresses concern* at restrictions imposed on and victimization of members of parliament, journalists and other opinion shapers in exercising their **legitimate** right of freedom of expression, **which also calls for criminalization of those who, in the name of freedom of expression, violate laws and infringe upon others' legal rights**;

(China)

Amend to read as follows:

7. *Expresses concern* at restrictions imposed on and victimization of members of parliament, journalists and other opinion shapers, **some of whom are assassinated** while exercising the right of freedom of expression;

(Cuba)

Amend to read as follows:

7. ~~*Expresses concern*~~ **Condemns** at restrictions imposed on and victimization of members of parliament, journalists and other opinion shapers in exercising the right of freedom of expression;

(France)

New operative paragraph 7bis

Add a new paragraph after operative paragraph 7, to read as follows:

- 7bis. Believes that members of parliament, journalists and others who engage in public discourse need to be able to exercise their right to freedom of expression without fear of unlawful restrictions or reprisals;**

(Canada)

Operative paragraph 8

Amend to read as follows:

8. *Urges* parliaments to ensure that ~~only~~ restrictions on freedom of expression that are ~~absolutely~~ necessary to protect the rights of others and provided for by law are allowed, and that any regulatory regime operates in this context;
- (China)

Amend to read as follows:

8. *Urges* parliaments to ensure that only restrictions on freedom of expression **provided for by law that are and absolutely necessary to protect, in a democratic society, the public interest or** the rights of others ~~and provided for by law~~ are allowed; ~~and that any regulatory regime operates in this context;~~
- (Switzerland)

Operative paragraph 9

Amend to read as follows:

9. *Recognizes* that freedom of expression and access to information may need to be restricted during exceptional circumstances to protect the public interest or safety, such as during times of war, but stresses that such restrictions ought to be strictly limited in scope and duration by ~~law~~ **accessible, specific and non-discriminatory legislation that is proportionate to its purpose and whose implementation is subjected to independent judicial oversight;**
- (France)

Delete the operative paragraph.

(Spain)

Amend to read as follows:

9. *Recognizes* that freedom of expression and access to information may need to be restricted ~~during exceptional circumstances to protect the public interest or safety, such as during times of war,~~ **in case of war or other serious threat to public order and security,** but stresses that such restrictions ought to be strictly limited in scope and duration by law;
- (Switzerland)

New operative paragraph 9bis

Add a new paragraph after operative paragraph 9, to read as follows:

- 9bis. *Urges* parliaments to ensure that all legal norms established to combat terrorism respect human rights and are not used to introduce new restrictions to freedom of expression and information, with the exception of those that are absolutely necessary in a democratic society and after careful examination of existing resources;**
- (Switzerland)

Operative paragraph 10

Merge operative paragraphs 10 and 11, and replace with the following:

10. **Believes in the importance of promoting a society in which a diversity of broadcasters, publishers, artists, and other persons or organizations that exercise their freedom of expression are able to participate fully and in which the public has access to a variety of opinions, perspectives and views;**
(Canada)

Amend to read as follows:

10. *Expresses its concern* about the **increasing** concentration of media ownership leading to the marginalization of the right to express unconventional views or views that are not in the mainstream;
(Cuba)

New operative paragraph 10bis

Add a new paragraph after operative paragraph 10, to read as follows:

- 10bis. **Calls on parliaments to pass laws that protect the right to freedom of opinion and expression and that ensure respect for intellectual pluralism;**
(Morocco)

Operative paragraph 11

Amend to read as follows:

11. *Believes that* plurality of media and public-interest broadcasters should be encouraged by parliaments as being essential to freedom of expression, **provided that States are able to develop the information industry and provide more material support;**
(China)

Amend to read as follows:

11. *Believes that* plurality of media and public-interest broadcasters should be encouraged by parliaments as being essential to freedom of expression **and furthermore calls on parliaments to combat the imposition of arbitrary sanctions on the media, press agencies and their agents;**
(Congo)

Amend to read as follows:

11. ~~*Believes that*~~ **Invites those parliaments that have not already done so to pass laws in order to guarantee the** plurality of media and public-interest broadcasters ~~should be encouraged by parliaments as being essential to freedom of expression;~~
(France)

Operative paragraph 12

Amend to read as follows:

12. *Urges* the media to exercise their freedom of expression judiciously in all circumstances, particularly during armed conflict, counter-terrorism operations, **cases of incitement to splittism** and in other similar situations;
- (China)

New operative paragraphs 12bis and 12ter

Add two new paragraphs after operative paragraph 12, to read as follows:

- 12bis. *Invites* the Security Council to adopt a resolution recalling the scope of international humanitarian law for journalists present in conflict zones; such a resolution should echo the United Nations belief in the principles of freedom of expression and the right to information and encourage States to prosecute and reported violations in this area;**
- 12ter. *Invites* UNESCO to organize a convention on the right to information and freedom expression, affirming the principle of freedom of information and journalists' right to safety in all circumstances, including in cases of armed conflict, laying down the principle of journalists' right of access to conflict zones and identifying the obligations of armed forced towards them;**
- (France)

Add two new paragraphs after operative paragraph 12, to read as follows:

- 12bis. *Urges* parliaments to combat all forms of prior and systematic censorship of the media or other means of information dissemination;**
- 12ter. *Calls for* parliaments to ensure protection of the freedom to express political opinions, notably the protection of journalists' and their assistants' sources of information;**
- (Switzerland)

Operative paragraph 13

Amend to read as follows:

13. *Calls for* an international dialogue to respond to the challenge of fair regulation of the Internet to ensure that it constitutes a democratic medium of expression without interfering with **national security, public order, public health, morals or** the legitimate rights of others;
- (China)

Amend to read as follows:

13. ***Further calls for* parliaments to participate actively in** an international dialogue **on the future governance** ~~to respond to the challenge of fair regulation of the~~

Internet to ensure that it constitutes a democratic medium of expression **that respects** ~~without interfering with~~ the legitimate rights of others, **notably in the framework of the UN Internet Governance Forum (IGF) as well as emerging networks linked to the IGF on the national and regional levels;**

(Switzerland)

Operative paragraph 14

Amend to read as follows:

14. *Calls on* parliaments to ensure that education is made compulsory and free until ~~the end of secondary school (up to about age 16)~~ and that adult literacy becomes a widespread practice;

(Canada)

Amend to read as follows:

14. *Calls on* parliaments to ~~ensure~~ **promote compulsory education** ~~that education is made compulsory and free until the end of secondary school (up to about age 16)~~ and ~~that~~ adult literacy ~~become a widespread practice,~~ **which are prerequisites of exercising the right to information;**

(China)

Amend to read as follows:

14. *Calls on* parliaments to ensure that education is made compulsory and free until the end of secondary school (up to about age 16) and that adult literacy **and mastery of new information and communication technologies** becomes a widespread practices;

(Switzerland)

Operative paragraph 15

Delete the existing operative paragraph.

(Canada)

Replace paragraph 15 with a new paragraph to read as follows:

15. ***Calls on* parliaments to ensure continuous support for domestic infrastructure and information technology so as to provide a necessary basis for citizens to enjoy the right of freedom of expression and the right to information;**

(China)

Amend to read as follows:

15. *Underscores* the importance of people's right to access information about other religions, **reaffirms that professing any or no religion is a matter of personal choice, and therefore urges parliaments to ensure that this choice is not penalized and, more particularly, is not sanctioned by the law** ~~and the right to convert to another religion without being banned or punished by society;~~

(France)

Amend to read as follows:

15. *Underscores* the importance of people's right to access information about other religions and the right to convert to another religion without being banned or punished by society, **or to profess no religion and to consider oneself atheist or agnostic;**

(Spain)

Amend to read as follows:

15. *Underscores* the importance of people's right to access information about other religions and ~~the right to convert to another religion without being banned or punished by society~~ **urges parliaments to take legislative measures criminalizing all offensive actions against religious teachings and leaders that threaten national security in many States;**

(United Arab Emirates)

New operative paragraph 16bis

Add a new paragraph after operative paragraph 16, to read as follows:

- 16bis. Encourages parliaments to take effective measures to narrow the digital divide, including by providing technical and financial assistance to developing countries as well as by strengthening international cooperation in this field;**

(China)

Add a new paragraph after operative paragraph 16, to read as follows:

- 16bis. Encourages governments who regularly report on their governance, and urges those who do not often do so, to inform citizens as a matter of course in order to allow them to participate constructively in development by making good use of their right to freedom of expression;**

(Congo)

Operative paragraph 17

Amend to read as follows:

17. ~~Requests~~ **Urges** the IPU to encourage the exchange of experiences and good practices in the development of the right to freedom of information **and in striking a balance between exercising the right and avoiding incitement to religious and other forms of hatred;**

(China)

Amend to read as follows:

17. *Requests* the IPU to encourage the exchange of experiences and good practices in the development of the right to freedom of information **and to lend support in various forms to all parliaments wishing to take action aimed at enhancing the exercise and enjoyment of the right to freedom of information;**

(Congo)

Operative paragraph 18

Delete the existing operative paragraph.

(Canada)

Amend to read as follows:

18. *Encourages* the development of freedom of information beyond State actors to encompass significant private-sector companies and bodies **as long as they play a constructive role;**

(China)

Amend to read as follows:

18. *Encourages* the development of freedom of information beyond State actors to encompass significant private-sector companies and bodies, **including Internet service providers;**

(Switzerland)

Operative paragraph 20

Replace operative paragraph 20 with a new paragraph to read as follows:

20. **Stresses that the purpose of access to information legislation is the disclosure of information except in limited circumstances to protect the public interest and the privacy of individuals;**

(Canada)

Amend to read as follows:

20. *Considers* that, **in public administration**, the basic principle should be in favour of **transparency disclosure**, with narrowly defined restrictions permissible only in the public interest, or to protect the personal data of individuals;

(Switzerland)

Operative paragraph 21

Amend to read as follows:

21. *Urges* parliaments to ~~work with their respective governments to eliminate the barriers to a freedom of~~ **take appropriate measures to ensure effective access to an information regime** information regime, including, but not limited to **promoting** public awareness **of the regime, allocating sufficient** ~~adequate~~ resources, limiting exceptions **to disclosure, adopting** effective guidelines, eliminating delays and excessive fees, **supporting an independent regulatory regime oversight**, and to encourage an attitude among public servants of openness rather than unnecessary secrecy **encouraging an institutional culture of respect for access to information within the public service;**

(Canada)

Amend to read as follows:

21. ~~Urges~~ **Encourages** parliaments to work with their respective governments to eliminate the barriers to any effective freedom of information regime, including, ~~but not limited to:~~ public awareness, adequate resources, limiting exceptions, effective guidelines, eliminating delays and excessive fees, ~~an independent~~ **effective** regulatory regime ~~with sufficient powers to enforce compliance, and to~~ encourage an attitude among public servants of openness ~~rather than unnecessary secrecy~~ **and also to bear in mind that the exercise of this right also carries with it special duties and responsibilities and that national interests and other people's legal rights should be protected;**

(China)

Amend to read as follows:

21. *Urges* parliaments to work with their respective governments to eliminate the barriers to an effective freedom of information regime, including, but not limited to: public awareness, adequate resources, limiting exceptions, effective guidelines, eliminating delays and excessive fees, an independent regulatory regime with sufficient powers to enforce compliance, ~~and to encourage an attitude among public servants of openness rather than unnecessary secrecy.~~

(Switzerland)

New operative paragraphs 22bis, 22ter, 22quater and 22quinquies

Add the following paragraphs at the end of the operative part:

- 22bis. **Emphasizes that, as stipulated in international human rights law, everyone has the right to freedom of expression, and that the exercise of this right carries with it special duties and responsibilities, and may therefore be subject to certain restrictions, but only those provided by law and necessary for the respect of the rights or reputations of others, or for the protection of national security or of public order, or of public health or morals;**

(Indonesia)

- 22ter. **Emphasizes that everyone has the right to hold opinions without interference and the right to freedom of expression, and that the exercise of these rights carries with it special duties and responsibilities and may therefore be subject to limitations as are provided for by law and are necessary for respect of the rights or reputations of others, protection of national security or of public order, public health or morals and respect for religions and beliefs;**

- 22quater.. **Calls on the international community to foster a global dialogue to promote a culture of tolerance and peace based on respect for human rights and diversity of religion and belief, and urges States, non-governmental organizations, religious bodies and the print and electronic media to support and participate in such a dialogue;**

(Islamic Republic of Iran)

- 22quinquie. **Urges IPU Members to reinforce the principle of the right to access information, a fundamental and legal right in all democratic societies;**

(Morocco)