LEGAL COMMITTEE – 35TH SESSION

(Montréal, 6 – 15 May 2013)

Agenda Item 7: Report on work done at the Session

DRAFT REPORT ON THE WORK OF THE LEGAL COMMITTEE DURING ITS 35TH SESSION

1. The attached paragraphs 5:1 to 5:5 of the draft Report of the Legal Committee relate to Agenda Item 5.

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Agenda Item 5: Election of the Chairman and Vice-Chairmen of the Committee

5.1 Before the election of the Chairman and Vice-Chairmen of the Committee at the end of this Session, the Committee noted that in its 34th Session and the current Session, the previously elected Chairman was absent and did not chair any meetings of the Committee. An informal proposal had therefore been made that the Rules of Procedure of the Legal Committee be amended to the effect that when the Chairman resigns or otherwise becomes unable to serve for the remainder of his or her term, the First Vice-Chairman shall become the Chairman, and other Vice-Chairmen shall be advanced to the precedence higher than his or her current level, with the office of fourth Vice-Chairman remaining vacant.

5.2 The discussion of this matter was presided over by Ms. S. Tan (Singapore), the Third Vice-Chair of the Committee, as Mr. M. Jennison recused himself due to a perceived conflict of interest. Ms. Tan declared to the meeting that if the proposed amendment were adopted, she would have been advanced from the Third Vice-Chair to the Second Vice-Chair, which could also be perceived as a conflict of interest. Despite this declaration, the Committee decided that Ms. Tan may chair the meeting.

5.3 Before the discussion of the contents of the proposed amendment, some procedural issues had been raised concerning how to include this item in the agenda. According to one view, the introduction of a new agenda item at this stage by the Committee itself after the final agenda had been fixed may not be in conformity with the Rules of Procedure, as Rule 11, sub-paragraph c) requires the approval of the Council for adding an additional item to the agenda. Another possible interpretation was that the Committee is generally the master of its own procedure, and consequently, subject to constraints of its Constitution, and the specific provisions in Rule 47, it may amend its rules as may be deemed necessary or appropriate.

5.4 As an alternative to the amendment of the Rules of Procedure, two delegations jointly presented a motion that in view of the *de facto* Chairmanship of Mr. M. Jennison at the 34th and 35th Sessions of the Legal Committee, the Committee should adopt a decision to recognize him as *de jure* the Chairman of the two Sessions. This proposal was supported by many delegations and unanimously carried by the Committee. It was decided that the record of the Legal Committee should indicate that he was the Chairman of the Legal Committee for a full term consisting of its 34th and 35th Sessions.

5.5 Several delegations mentioned the need to amend the Rules of Procedure of the Committee in due course, taking into account the foregoing discussion.