



**Project Title:** Institutional Support on the ICT Dispute Settlement Mechanisms in the Caribbean

**Estimated Start Date:** April 2012

**Estimated End Date:** March 2016

**Government Coop. Agencies:** Ministries of Communications, Regulators, Dispute Settlement Bodies

**Implementing Agency:** International Telecommunication Union (ITU)

**Beneficiary Countries:** Caribbean countries among the ACP Group of States

**ITU Project Manager:** Area Office, Barbados

SUMMARY OF CONTRIBUTIONS	
A) Project Budget	
Description	EUR*
Staff Costs	1,900,000
Missions	458,000
Training	300,000
External Services	160,000
Equipment and Supplies	29,000
Communication Services	17,500
Bank Charges and Exchange losses	30,000
Miscellaneous and Other Costs	213,315
<b>Total:</b>	<b>3,107,815</b>

\* EUR 3,107,815 (in-cash) equivalent to USD 4,074,000

**Brief Description:**

Over the last two decades, most of the Government of the Caribbean have embarked on Information and Communication Technology (ICT) policy and regulatory reforms recognizing the need to create better conditions to properly deal with the new issues brought by convergence in the ICT Sector.

The “Institutional support on the ICT dispute settlement mechanisms in the Caribbean” project aims at building on the platform and dynamism created in the region by the ITU-EC “Enhancing the competitiveness in the Caribbean through the harmonization of ICT Policies, Legislation and Regulatory Procedures” (HIPCAR) project and is designed to support the Caribbean countries among the ACP Group of States to move into the convergence era with updated regulatory and legal frameworks, and, in particular, with the more appropriate skills within their bodies involved in ICT dispute settlement (the Judiciary as well as the Regulatory Authority, the Ministry having competence in ICT dispute settlement and, if any, the Ombudsman), hereinafter referred as “Dispute Settlement Bodies” to handle disputes in the ICT sector. It will provide responses to challenges that beneficiary countries will face during implementation of harmonized ICT environment

It will address the need for building human and institutional capacity of these bodies (with particular attention to improve speed, efficiency and effectiveness of dispute resolution) through a range of targeted training, education and knowledge sharing measures as well as through the development of specific tools, with the goal of fostering an enabling and competitive environment conducive to necessary investments in ICT infrastructure, applications and services.

The ICT Regulatory Decisions Clearinghouse (ICTDec) serving as repository of ICT regulatory decisions will be updated to enable the dispute settlement bodies to refer to decisions taken by other dispute settlement bodies on similar issues (jurisprudence), be more responsive and capable of resolving ICT related disputes.

This objective is in line with the objectives of the World Summit on Information Society (WSIS), the World Telecommunication Development Conference (WTDC-10) and the Millennium Development Goals (MDGs).

For the	Signature	Date	Name/Title
ITU:	_____	__/__/____	
Partner(s):	_____	__/__/____	
	_____	__/__/____	

## **1. BACKGROUND AND CONTEXT**

Information and Communication Technologies (ICTs) are widely recognized as key drivers of investment, employment and social and economic development. However while industrialized countries rapidly and effectively leverage the benefits of ICTs, many developing countries and Least Developed Countries (LDCs) are falling behind, thus widening gaps in opportunity and prosperity.

In an effort to cope with the changes taking place in the ICT sector and to address increasing communication demands, Caribbean countries have made remarkable efforts to reform their telecommunication/ICT sector (i.e. (i) review of their national telecommunication legislation and their regulatory frameworks opening up their markets to some form of competition and (ii) establishment of separate regulatory authorities to manage ICT sector development).

In a context of continuous changes, Governments and Regulatory Bodies of the Caribbean have recognized the need to establish common ICT market and the fact that this could only be done through the adoption of a harmonized regional regulatory framework to properly deal with the fast changing ICT environment and the new regulatory issues brought by convergence.

Leaders worldwide in world events such as those at the World Summit on Information Society (WSIS) held in Geneva-2003 and in Tunis-2005 highlighted the importance in overcoming all barriers towards the creation and building of a safe information society for all. A Declaration and Action Plan were adopted which underscored, inter alia, the importance of capacity building and the enabling environment.

To respond to requests from the Caribbean Regional Organizations and respective countries asking for cooperation to harmonize ICT policies, legislations and regulatory frameworks throughout the region in the framework of the Caribbean Single Market and Economy (CSME), the International Telecommunication Union (ITU) and the European Commission (EC) have partnered in 2007 for the implementation of a project designed to assist Caribbean countries in improving their competitiveness by harmonizing approaches to ICT development (Enhancing competitiveness in the Caribbean through the harmonization of ICT policies, legislation and regulatory procedures" (HIPCAR).

### **1.1 Justification**

The evolution of the telecommunication/ICT market, in particular due to privatization, liberalization and technological improvements has radically transformed the sector and led to a complete revolution in the way of doing communication business: new companies entered markets offering new services inducing new relationships between network operators, service providers and end-users.

These trends have also led to an increase in the number and variety of disputes among stakeholders (between operators, between operators and consumers and between regulators and operators, between operators and Ministries, etc.) that have to be solved by the Dispute Settlement Bodies. Those disputes do not occur only at national level but also regionally and internationally and cover various aspects: i.e. interconnection of networks, licensing rights and obligations, frequency spectrum management and monitoring, establishment of control of Quality of Services Indicators, especially in the provision of Voice over Internet (VoIP), enforcement mechanisms, etc.

Experience indicates that Dispute Settlement on ICT issues is a new area where Dispute Settlement Bodies are generally not well prepared to face the situation and to settle the disputes in a timely, efficient and effective manner. Dispute Settlement Bodies often do not get the best result for dispute resolution, mainly due to the fact that, in most of the countries, staff does not have enough background (i.e. understanding of dispute resolution mechanisms), enough skills and expertise as well as necessary tools related to the telecommunication/ICT business to allow them to successfully resolve the disputes. Without qualified staff the implementation of even the most basic of sector reform programs leading to improve telecommunication/ICT access and affordability would remain a challenge.

This situation has a negative impact on countries' telecommunication/ICT sector business: it reduces effective implementation of future harmonized framework, increase legal uncertainty and thus restricts investments and consequently development of telecommunication/ICT infrastructure, news applications and services and job creation.

## **2. PROJECT DESCRIPTION**

The project aims at supporting Caribbean countries to confidently enter into the communication convergence era equipped with appropriate tools and skills for Dispute Settlement Bodies. It will cover disputes occurring among the broad variety of stakeholders (between operators, between operators and end-users, between operators and regulators, between operators and Ministries, etc.).

Dispute Settlement Bodies will be strengthened at national level, however, the project will also include regional levels (such as the Regional Courts of Justice, Regional Chambers of Commerce, etc.) which can ensure effective and uniform interpretation of the regional legal framework and consequently contribute to its harmonization.

The project will also highlight strengths and weaknesses in the enforcement of decisions taken for dispute resolution and identify mechanisms to strengthen it. Finally, it will provide a collection of best practices to improve effectiveness of decision enforcement and lay the ground for development of Guidelines that countries could consider in future.

In summary, the project will contribute concretely to build Caribbean countries and region's institutional and human capacity in the field of ICT dispute resolution. It will develop tools enabling exchange information, knowledge and experience in order to facilitate Dispute Settlement Bodies' responsiveness and capability in resolving ICT related disputes.

This project pleads for a demand-driven bottom-up approach that provides support for ICT institutional and human capacity development in the Caribbean. It is complementary to the HIPCAR project as well as the proposed HIPCAR II project since it will be facing the challenges of the effective implementation of new harmonized regulatory environment.

Special consideration will be given to a methodology which will facilitate ownership of the proposed project by the beneficiaries. Involvement and participation from the beneficiary countries and the regional organizations will be an important aspect of the project. Therefore, deliverables and activities will be the result of a negotiated process involving the beneficiary countries and the organizations/institutions.

In order to increase efficiency and impact of the project, to avoid/minimize duplication or overlapping and exploit synergies and complementarities, the project will ensure incorporation of past or current regional initiatives/projects (from other international, regional organizations, etc.) and encourage cooperation with and participation of all concerned organizations/institutions as well as other stakeholders in the region who can provide inputs to the project.

## **3. PROJECT OBJECTIVES**

The objective of this project is to support the Caribbean countries of in strengthening their Dispute Settlement Bodies to enhance fair, transparent, timely and cost-effective dispute settlement mechanisms for smooth and effective implementation of a harmonized ICT market in the region that promotes development of ICT infrastructure, applications and services to serve the national priorities for socio-economic benefit in line with the objectives of the World Telecommunication Development Conference (WTDC-10), the World Summit on Information Society (WSIS) and the Millennium Development Goals (MDGs).

## 4. EXPECTED OUTPUTS

The expected outputs of the project will be in particular:

- Caribbean professionals of Dispute Settlement Bodies qualified and trained;
- Comprehensive training curricula for ICT settlement of disputes developed;
- Workshops and virtual training delivered;
- ICT Regulatory Decisions Clearinghouse (ICTDec) interactive online platform and repository of ICT decisions enhanced and updated ;
- Direct assistance in ICT dispute resolution delivered to requesting countries; and
- Best practices identified and shared.

## 5. INDICATORS

- Number of national focal points and professionals of the Disputes Settlement Bodies trained;
- Number of training material developed;
- Number of training courses delivered (face-to-face and virtual); and
- Number of countries having received direct assistance.

## 6. ACTIVITIES

The following main activities will be carried out:

### a. Multi-stakeholder (kick-off) meeting

At the start of the project, the project team will identify and contact the stakeholders of the region in order to present the project, review their needs and priorities and prepare an initial assessment to be presented at a multi-stakeholder kick-off meeting.

This kick-off meeting would be convened with all project beneficiaries and will formally launch the project. It will recall its objectives and solicit views from all segment of the society. The list of priority areas/topics will be reviewed and confirmed or modified. Workplan, implementation governance, consultative mechanism and methodology will be discussed and jointly agreed upon. At this occasion, commitment and participation of regional organizations and beneficiary countries as well as of training institutes will be confirmed and formalized. Regional Organizations, regional arbitration and mediation centers (if any) and respective countries will ensure availability of the local personnel as well as resources requiring local inputs to guarantee smooth implementation of the project. Support could also be sought from other UN agencies, international and bilateral organizations dealing with ICT dispute settlement.

### b. Assessment of the situation

At the initial stage of the project an assessment of the situation will be undertaken, taking into account results and recommendations of the multi-stakeholder meeting. Materials produced by other organizations/institutions on the subjects will also be collected and reviewed.

This activity will allow the project staff to establish the existing situation in each country and to gather necessary information, survey studies related to dispute settlement as well as existing mechanisms, material and training programs. This evaluation will allow comparison between the countries by showing areas of commonalities and differences. Main obstacles will be identified and recommendations proposed. These surveys will be carried out in collaboration with National Regulatory Bodies, Courts, Tribunals and Parliaments and will include identification of the Centers of Excellences, Universities, Academia and other national, regional and international institutes dealing with disputes settlements to be used as training hubs.

### **c. Capacity Building**

Comprehensive training programmes tailored to regional and national needs in the Caribbean will enable the Dispute Settlement Bodies to fulfill their mandate in the field of ICT disputes. Adequate capacity building will be provided to national experts in order to equip them with necessary tools and skills for long term sustainability and success in the project.

Courses will be offered on the topics such as:

- Overview of dispute resolution mechanisms (i.e. traditional (regulatory adjudication) and alternative (mediation/conciliation and arbitration));
- Interconnection (i.e. technical, operational, pricing, billing reconciliation, agreements);
- Liberalization (i.e. reduction or termination of exclusive rights);
- Investment and trade (i.e. licensing, new rate-setting structures);
- Consumer (i.e. service charge, billing, payment of charges, slamming, quality and terms of service, privacy, marketing strategies);
- Radio frequency (i.e. interference, license conditions, pricing);
- Competition related-disputes (i.e. service packages or “bundles”, infrastructure sharing);
- International Trade;
- Cybersecurity;
- Data protection; and
- Intellectual property rights, copyrights (i.e. for ICT applications, on-line content, technologies, software).

This list will be reviewed and confirmed or modified by the beneficiaries at the multi-stakeholder (kick-off) meeting.

Once analysis of the survey outputs and assessment has been completed, targeted training material for the training program will be developed and curricula prepared in English and if necessary in French and/or in Spanish. Face-to-face capacity building workshops in conjunction with virtual (distance) learning sessions will be delivered in English and if necessary in French and/or in Spanish, involving the Caribbean Centers of Excellence (CoE) and Nodes and ICT training institutes/Academia in the Caribbean and in other continents offering targeted training in dispute settlement.

### **d. Enhancement of website**

The project will in particular benefit from and enhance the ICT Regulatory Decisions Clearinghouse (ICTDec), an online resource that provides a one-stop access point to decisions originating from ICT decision-making bodies from around the world. The ICTDec, as repository of ICT decisions, will serve as a practical resource for the professionals of the Dispute Settlement Bodies, easy to access and consult. It will provide them the possibility to post their own decision<sup>1</sup> on the website and the capability to gather information and make analysis following their specific requirements. It will strengthen their capacity to make sound decisions and refer to decisions taken by other settlement bodies on similar issues.

### **e. Direct in-county assistance**

Once training has been delivered and interactive platform/repository enhanced, direct assistance (short-term missions by experts) will be provided to countries to help them to resolve specific ICT dispute. The type of intervention will depend on the situation of each country concerned. Special attention will be given to countries in special need.

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<sup>1</sup> The platform is multilingual and decisions can be posted in all ITU working languages.

## **7. INPUTS**

**ITU:** ITU will be the executing agency and will engage and manage staff resources, funded by the project, for the overall project supervision and coordination. ITU will provide information on current practices concerning ICT regulatory issues, access to ITU existing materials, including existing training courses and relevant publications. ITU will exercise all reasonable skill, care and diligence to ensure the success of the project.

**Proposed partner:** The proposed partner will provide funding support for the smooth development and implementation of the project.

**Beneficiaries:** The regional organizations and beneficiary countries of the Caribbean will provide qualified and dedicated focal points that will play a key role both for ownership of the project and for effective transfer of know-how. Commitment and participation from each beneficiary country and from the regional organizations/institutions will be an important aspect of the project. The beneficiaries are also expected to provide information/data required to carry out the project's activities, access to all relevant documents, secured premises to host the project team meetings, workshops and training activities, logistics arrangements and support and any other assistance to the project that may be required by the project staff.

## **8. RISKS**

The main advantage of this project, namely the fact that it addresses several countries at a time, can be viewed as a risk factor. The decision process with a large number of countries can be slow and the degree of accountability and interest may be low compared to a single country case. In this project, this risk is reduced by closely linking the project to established regional organizations/institutions that are mandated at the highest political level for achieving economic integration of their respective countries and by benefiting from the platform and dynamism created by the HIPCAR project in the region.

Participants may leave their job after training, reducing the impact of the project. In order to reduce this risk, beneficiary countries should carefully choose participants for the project. Furthermore, efforts should be made for trainees to impart their new knowledge to their colleagues who were not selected.

In-country activities may suffer delays due to unforeseen local events and circumstances. This risk will be minimized as the local staff and ITU area Office will be closely involved in the implementation of this project.

## **9. PROJECT MANAGEMENT**

The role and responsibilities of the different stakeholders are to be clearly defined. In order to facilitate the implementation of the project, a project team, funded by the project, will be constituted, by ITU. This project team will work in close cooperation with the personnel of the ITU Area Office of Barbados as well as of Headquarters and will be assisted by experts. The project team will perform the project activities in close relationship with the regional organizations/institutions and beneficiary countries focal points.

## **10. MONITORING AND EVALUATION**

The project staff will prepare periodic progress reports, which will consist of a narrative part and financial part. These reports will provide a summary of the project progress, the challenges as well as any necessary amendments that may be required for successful project implementation. At the end of the project, a final evaluation will be conducted to assess the project's success. A final report will be prepared and submitted to the Project partner.



### 13. BUDGET

SPONSOR CLASSES	DESCRIPTION	TOTAL
		EUR
<b>STAFF COSTS</b>		
3001	Permanent Staff – Base salaries	1.050.000
3002	Temporary Staff – Base salaries	
3003	Interpreters – Base salaries	
3004	External services – Consulting	850.000
3005	External services – Translation	
3006	National professional project personnel – salaries	
	<b>Sub-total:</b>	<b>1.900.000</b>
<b>MISSIONS EXPENSES</b>		
3111	Mission expenses DSA staff	20.000
3112	Mission expenses transportation staff	20.000
3113	Other mission expenses staff	3.000
3131	Fellowship mission expenses - DSA	180.000
3132	Fellowship mission expenses - transportation	145.000
3133	Fellowship - other mission expenses	15.000
3141	External services consulting DSA	18.000
3142	External services consulting - transportation	50.000
3143	External services consulting - miscellaneous	7.000
3161	National professional project personnel – DSA	
3162	National professional project personnel – TKT	
3163	National professional project personnel – misc.	
	<b>Sub-total:</b>	<b>458.000</b>
<b>TRAINING</b>		
3201	Fellowship training	300.000
	<b>Sub-total:</b>	<b>300.000</b>
<b>EXTERNAL SERVICES</b>		
3310	Sub-contracts ITU-D	50.000
3320	External services – Printing publication	
3330	Rental – Office space	25.000
3331	Rental – Photocopiers	
3332	Rental – Computer systems	
3333	Rental – Audiovisual equipment	
3334	Rental – Conference rooms	80.000
3335	Rental – Shuttle, bus, cars	
3340	Maintenance – Cleaning of premises	5.000
	<b>Sub-total:</b>	<b>160.000</b>
<b>PURCHASE OF EQUIPMENT AND SUPPLIES</b>		
3410	Office supplies	7.500
3420	Purchase machine and technical equipment	
3430	Purchase IT equipment	10.000
3440	Purchase office furniture	7.500
3450	Purchase computer software	4.000
	<b>Sub-total:</b>	<b>29.000</b>
<b>COMMUNICATIONS SERVICES</b>		
3510	Postage and expedition charges	5.000
3520	Telecommunication services – fixed phone	5.000
3521	Telecommunication services – mobile phone	7.500
3522	Telecommunication services - internet	

3530	External services – Insurance contracts	
	<b>Sub-total:</b>	<b>17.500</b>
	<b>BANK CHARGES AND EXCHANGE LOSSES</b>	
3610	UNDP service charges	25.000
3620	Bank charges	5.000
3630	Exchange losses realized	
3640	Exchange losses not realized	
	<b>Sub-total:</b>	<b>30.000</b>
	<b>OTHER CHARGES</b>	
3710	External auditing of accounts	10.000
3720	Miscellaneous & contingency charges	
3740	Internal Invoicing (DPS)	
	<b>SUB-TOTAL PROJECT</b>	2.904.500
3730	Administrative Overhead Support costs	203.315
3800	Contingency component/Reserve	
	<b>TOTAL BUDGET</b>	<b>3.107.815</b>

