



**EXPERT GROUP ON THE
INTERNATIONAL TELECOMMUNICATION
REGULATIONS**

**REVIEW OF THE INTERNATIONAL TELECOMMUNICATION REGULATIONS:
POSSIBLE TOPICS FOR DISCUSSION**

This document summarises the possible topics for discussion raised in the background paper prepared by the Secretariat

Article 1 - Purpose and Scope of the Regulations

The Meeting may wish to discuss the following:

- *Whether references to telecommunications services and systems of transport are too narrow or too broad.*
- *The extent to which such references encompass the Internet, Internet telephony and electronic commerce applications.*
- *Whether and how the reference to services offered to the “public” and the definition of that term excludes private telecommunications services and whether such services should continue to be excluded from the Regulations.*
- *Whether there is a need to more precisely state the types of services that are included or excluded from the ITRs.*
- *The suitability of the rather ambiguous reference in 1.3 to facilitating the need for interconnection, given the importance that that issue has assumed over the past few years.*
- *To what extent could or should considerations of national sovereignty permit Member States to not apply or enforce the provisions of the ITRs?*
- *What is the significance of the change made in referring to the ITRs as “complementing” instead of “supplementing” the Constitution and Convention of the ITU?¹*
- *Should the ITRs be strengthened to have stronger legally-binding effect?*
- *In light of changes recently made to the Radio Regulations, can or should certain ITU-T Recommendations be incorporated by reference in the ITRs and thereby given binding effect? Should the language used to refer to compliance with ITU-T Recommendations be strengthened?*
- *Should provision be made in the Regulations for a mechanism to resolve disputes?*
- *Is the focus in 1.5 on mutual agreement between administrations* consistent with the World Trade Organization (WTO) principles set forth in the 4th Protocol, including that of MFN?*
- *What is the practicality of licensing and authorization for transiting arrangements?*

¹ In the French version of the ITRs, which is the official text, this term was not changed.

- *What are the appropriate jurisdictional links for an administration to impose a licensing requirement or obligation under the ITRs or to impose national laws or regulations?*
- *Is the spirit of the ITRs consistent with recent decisions taken on national and regional approaches to licensing?*
- *Is there a need for the ITRs to formally establish a cooperation mechanism or obligation in cases where a Member State is effected by services emanating from and under the responsibility of another Member State?*
- *What would be the appropriate reference to the Radio Regulations in a new version of the ITRs?*
- *Would there be a need to make an arrangement for references to the ITRs pending any needed amendments to the Radio Regulations?*
- *Should either the Radio Regulations or the ITRs have precedence over the other and, if so, which one should have precedence?*

Article 2 - Definitions

- *Is the definition of “telecommunication” (2.1), which is similar to that in the Constitution, sufficiently broad to encompass new telecommunications technologies, including the Internet? How does it apply to value-added services?*
- *Does the definition of international telecommunication service (2.2) extend to Internet transmission? Does the reference to capacities offered between countries adequately reflect the situation where a foreign operator is licensed and operates in a domestic territory? Do the terms telecommunications “offices or stations” reflect the current environment?*
- *With respect to the definitions of “Government”, “Service” and “Privilege” telecommunications, are these special categories still needed and should provisions pertaining to such services be contained in a treaty instrument? Alternatively, would they more properly fit in the Convention of the ITU?*
- *Does the definition of “international route” adequately reflect the use of packet-switched technology or the increasing use of bypass, refile and other transiting arrangements through third countries?*
- *What steps should be taken to reconcile the various definitions of OA and ROA in the regulatory instruments of the ITU? Should the ITRs apply to all operators?*
- *Is the definition of the term “Instruction” consistent with current practice in the standardization sector?*

Article 3: International Network

- *What value is added in Article 3 that is not present, for instance in the CS/CV?*
- *Could Para 3.3 be revised to make it more acceptable, for instance, by deleting the phrase which reads “and provided that there is no direct route between the terminal administrations* concerned”?*
- *Would it be useful to introduce other elements, for instance limiting the potential for cartelistic behaviour among operators or providers of international infrastructure? Should elements of competition policy be introduced?*
- *Should the ITR provisions be harmonised with those of the GATS, for instance in terms of access to, and use of, public telecommunications transport networks and services on reasonable and non-discriminatory terms (GATS Telecommunications Annex)?*
- *Would it be possible, or desirable, to integrate these provisions of the ITRs into the CS/CV?*

Article 4: International Telecommunication Service

- *What value is added in Article 4 that is not present, for instance in the CS/CV?*
- *Is the text relating to type approval (4.3a) really necessary in an international treaty? After all, as stated in the opening phrase, this is really a matter for national law and, as a growing number of countries have abolished the requirement for type approval, could the text not be dropped?*
- *Could the text on universal service (4.1) and universal access (4.3c) be expressed more elegantly, perhaps as part of the Constitution and Convention?*
- *Could the requirement on operators to make IPLs available (4.3b) and to interwork (4.3d) be expressed as a Resolution or Recommendation? Alternatively, could it be integrated into the Constitution and Convention?*
- *What is the real intention of 4.3d? Is it interworking of services or of operators? Could the word “interconnection” be substituted for “interworking”?*
- *Is it necessary to retain the repetitive mentions of conforming with CCITT (now ITU-T) Recommendations? Could this not just be mentioned once? Is it worth, for the sake of completeness referring to ITU Recommendations as a whole (i.e., ITU-D, ITU-R and ITU-T)?*

Article 5 - Safety of Life and Priority of Telecommunications

- *Can the essential elements of Article 5 be added to Article 40 of the Constitution? Is there a need for a separate article on this subject in the ITRs?*
- *Is there a need for any substantive changes to these provisions?*

Article 6: Charging and accounting

- *This article sets rules applicable to administrations* only. In the new market environment of greater competition, where private operating agencies (ISP for example) provide more and more international telecommunication services, is it fair and meaningful to regulate administrations* only? Alternatively, do we regulate only “operators” which have an international settlement obligation or do we need to set a rule to all “operators” ?*
- *Do we need to enforce Article 6.1.1 so that administrations* follow cost trends more closely when they establish the collection charge or is it up to the sovereign right of each country to regulate how its operators establish the collection charge?*
- *Is paragraph 6.2 an obstacle for free competition ?*
- *Is it because Article 6 is written in too flexible and vague a manner that there are still high and discriminatory accounting rates ?*
- *Is N°1.4 of Appendix 1 (which protects the interest of the destination country) contrary to the current needs of Member States or does it reflect those needs?*
- *Do we need to modify the procedure for establishment of accounts in order to avoid disputes between administrations* and to reflect new technologies?*
- *In spite of the rules and procedures in the Convention and in the ITRs, there is an increase of unilateral actions to stop the payment of balance of accounts because some administrations* do not agree on the accounting rate negotiation. Shall the revision of ITRs prevent such unilateral actions ?*
- *In the competitive environment, should administrations* continue to provide service and privilege telecommunications without concluding bilateral agreements?*

Article 7 - Suspension of Services

- *Is there a need to indicate more clearly the basis upon which a Member State can assert jurisdiction to suspend a telecommunication service?*

- *Is there a need to define those circumstances or reasons for which a Member State can suspend international telecommunications services?*
- *Can the additional elements in Article 7 be added to the existing article in the Constitution or, alternatively, is it necessary that these added elements be included in a treaty instrument?*

Article 8: Dissemination of Information

- *Is this article really necessary given the more complete instructions given in the Convention?*
- *Is it desirable to have a list of specific indicators to be published?² If so, should this form part of a resolution or recommendation rather than being part of the main text?*

Article 9: Special Arrangements

- *Could (should) the text of the special arrangements be changed in any way? For instance, to accommodate either the views of those who wish to see a more liberal interpretation of the ITRs or those who wish to see the rights of countries who have not chosen the route of competition to be protected?*
- *Could (should) the text of Article 9 be integrated with Article 42 of the CS?*
- *Does this Article cover the provision of new or future value added services such as E-mail, Voice over Internet etc...? If yes, are the conditions quoted in b) and in 9.2 sufficient to regulate these new services at the international level?*
- *Is the clause on avoiding harm to the networks of third countries redundant?*
- *Could the word “specialised” in the phrase “specialised international telecommunication needs” be dropped? It seems unnecessarily restrictive.*
- *Is it necessary to align the text of “special arrangements” with the WTO trade principle of MFN? For instance, by making it clear that the special arrangements are between administrations* rather than between Members,*
- *Should there be any system for informing third countries when a special arrangement has been concluded? For instance, when agreements to liberalise international simple resale (ISR) between countries are negotiated, could this information be broadcast, for instance via the Operational Bulletin?*

Article 10 - Final Provisions

- *What is the effect of the newly-adopted Article 32B of the Convention on the reservation process under the ITRs and should it be incorporated in any revision of the ITRs?*
- *Would a revision of the ITRs require a provision on reservations, or is Article 32B of the Convention sufficient?*
- *Should the additional obligation on reservations contained in 10.3 of the ITRs be added to the Convention as a proposed amendment?*
- *In light of Article 54, is there a need for a provision in the ITRs on implementation and approval by Member States?*
- *Alternatively, should the Regulations simply reference the relevant provisions of the Constitution?*

Appendix 3 - Service and Privilege Telecommunications

- *Should service telecommunications be provided free of charge?*

² For information, statistical issues are currently discussed at the World Telecommunication Indicators Meeting, organised by the ITU-D. The most recent meeting was held on 29-31 March 1999.

- *Is there a need to address this issue in a treaty instrument, such as the ITRs?*
- *Alternately, could the entire issue of service and government telecommunications be dealt with in the Rules of Procedure of the Union?*