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| **COUNCIL WORKING GROUP ONFINANCIAL AND HUMAN RESOURCES**7th meeting, Geneva, 30 January - 1 February 2017 |  |
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Contribution from the United States of America

ITU Participation in MoUs with Financial and/or Strategic Implications

**Introduction**

Resolution 192 (Busan, 2014) of the Plenipotentiary Conference instructs Council to formulate criteria and guidelines for ITU consideration and participation in Memoranda of Understanding (as well as Memoranda of Cooperation and Agreement) (MOUs) that have financial and/or strategic implications. The criteria should help ITU management identify the limited number of MOUs that should be reviewed by Council before they are signed by the ITU. The guidelines should define the process ITU management would use to obtain that review. One goal of the criteria and guidelines is to ensure that these MOUs are closely linked to the strategic objectives and results established in the strategic and operational plans. Following extensive and productive discussions, this contribution addresses the principle concerns expressed during Council 2016 and we urge this meeting to agree to the revised criteria and guidelines and send them to Council 2017 for approval.

**Discussion**

Resolution 192 confirms that Council has an important role in reviewing particular MoUs with significant financial, operational, or legal implications. This oversight is essential, particularly in these times of budgetary challenges, to allow Member States to consider carefully the financial and/or strategic implications of MOUs and weigh the need for particular MOUs against other priorities identified by Member States. Resolution 192 instructs Council “to implement a mechanism to review ITU participation in MOUs that have financial and/or strategic implications, and to provide guidance to the Secretary-General.” Such MOUs should thus be submitted as input documents, rather than as information documents, to Council meetings to obtain Council review so that it may provide guidance to the Secretary-General.

In previous meetings of Council and the Council Working Group – Financial and Human Resources (CWG-FHR), draft criteria and guidelines have been discussed, resulting in very valuable, collegial exchanges, including a number of helpful questions and suggestions that contributed to everyone’s understanding of the intent of Resolution 192. At the May/June 2016 Council meeting, two specific concerns were expressed. First, a number of counsellors were concerned that the proposed criteria would have a negative impact on MOUs for regional or national development initiatives. Second, some counsellors were of the view, as expressed in contribution 94 from Saudi Arabia, that Resolution 192 did not require prior Council approval before MOUs with financial and/or strategic implications may be signed by the ITU. The United States agrees with those counsellors, and with ITU Legal and Management, who do not want regional or national development initiatives affected by these criteria and guidelines. Appendix 1 to this contribution contains the draft criteria and guidelines reflecting the agreed comments from ITU Legal and Management as discussed at Council 2016. The sentence in Section 1 that is highlighted in yellow confirms that these criteria and guidelines cannot affect regional and national development initiatives, or various other MOUs. Likewise, we appreciate the views of Saudi Arabia and others that Resolution 192 does not require prior Council approval before MOUs with significant financial and/or strategic implications may be signed by the ITU. The draft criteria and guidelines in Appendix 1 contain suggested edits in track changes to eliminate references to any such prior Council approval and to make the language in the criteria and guidelines consistent with Resolution 192.

**Proposal**

The United States continues to understand that the ITU’s participation in MOUs can be beneficial for ITU members and we support that activity. Partnering with expert organizations is vital to ensure the ITU is taking advantage of expertise and to avoid duplicated efforts in a cost-efficient manner. The United States also notes the importance of linking strategic, financial, and operational actions to achieve the objectives and goals of ITU. The United States supported Resolution 192 as adopted at the 2014 Plenipotentiary Conference, and its call for criteria and guidelines to be established by Council to guide ITU participation in MOUs with financial and/or strategic implications. Appendix 1 to this contribution contains the United States’ comments on the draft criteria and guidelines to respond to concerns expressed during Council 2016. The draft is provided in the form of a draft Council resolution, which this Council Working Group should recommend to Council for approval. We urge this meeting to conclude work on the criteria and guidelines for ITU participation in MOUs with significant financial and/or strategic implications and to transmit the agreed results to Council so they can be approved and adopted by Council 2017.

**Appendix 1**

DRAFT Resolution 9999

(adopted at the xx Plenary Meeting)

ITU participation in memoranda of understanding (MOUs)
with financial and/or strategic implications

The Council,

considering

a) that Resolution 192 (Busan, 2014) of the Plenipotentiary Conference instructs the Council to formulate criteria and guidelines for ITU participation in MOUs[[1]](#footnote-1)1 that have financial and/or strategic implications, to implement a mechanism to review ITU participation in MOUs that have financial and/or strategic implications, and to provide guidance to the Secretary-General;

b) that one of the purposes of the Union as set out in Article 1 of the ITU Constitution is to maintain and extend international cooperation between all its Member States for the improvement and rational use of international telecommunications;

c) that another purpose of the Union is to promote, at the international level, the adoption of a broader approach to the issues of telecommunications in the global information economy and society, by cooperating with other world and regional intergovernmental and non-governmental organizations concerned with telecommunications;

d) that MOUs in which ITU, Member States and Sector Members may participate, are often used to facilitate cooperative action,

recognizing

a) that Resolution 192 observed “that the Union has entered into MOUs in which ITU is a participant that have financial and/or strategic implications, and these were discussed during Council 2014 as described in the Report by the Chairman of the Standing Committee on Administration and Management” and that Council 2015 and 2016 discussed similar MOUs;

b) that Council 2015 instructed the Council Working Group on Financial and Human Resources (CWG-FHR) to develop the criteria and guidelines required by Resolution 192 and to forward them to Council 2016;

c) that Council 2016 received and considered the criteria and guidelines developed by the CWG-FHR and as no consensus was reached, Council sent them back to the CWG-FHR for further discussion and consideration;

d) that Council 2017 received and considered the criteria and guidelines from the CWG-FHR,

resolves to instruct the Secretary-General

1. to implement the criteria and guidelines shown in Annex 1 of this resolution;

2. to develop the necessary practices and procedures to implement these criteria and guidelines; and

3. to submit a report to the annual session of the Council on the implementation of this resolution.

Annex 1 to Resolution 9999

**Criteria and guidelines for ITU participation in MOUs with significant financial
and/or strategic implications**

**1. Applicability**

For memoranda of understanding and similar instruments (MOUs) in which the ITU will be a participant, the criteria below will allow the ITU to identify those MOUs having significant financial and/or strategic implications. For those few MOUs, the guidelines describe how the ITU will obtain Council review and guidance, subject to guideline 4.4 below. These criteria and guidelines do not apply to MOUs intended for pluri-regional, regional or national development initiatives, voluntary contributions agreements, repayment agreements, license agreements, publication distribution agreements, agreements relating to staff matters, contracts for the purchase or rental by ITU of goods, works or services, and to the majority of MOUs the ITU enters into which, in the view of the Secretary-General, do not have significant financial and/or strategic implications, which do not require Council review and guidance.

**2. Guiding Principles**

The criteria and guidelines contained in this Annex are based on the following principles, described in Resolution 192 (Busan, 2014):

1. that ITU participation in an MOU will contribute to and be within the purposes of the Union as set forth in Article 1 of the Constitution and within the strategic, operational, and financial plans of the Union;
2. that interested Member States and Sector Members will be kept informed of the activities of ITU when it participates in MOUs, including those that have financial and/or strategic implications; and
3. that the sovereignty and rights of ITU Member States are fully respected and preserved.

**3. Criteria to Assess Significant Financial and/or Strategic Implications**

3.1 MOUs shall be deemed by the Secretary-General to have significant financial and/or strategic implications if he/she considers that one of the following criteria is met:

1. ITU participation in the MOU would require expenditures by the ITU of amounts that would create budgetary imbalances;
2. ITU assumes a liability, either on its own behalf or on behalf of other parties to the MOU, that would impair the ITU’s ability to remain within its authorized and approved budget or its ability to achieve objectives contained in the strategic or operational plans;
3. The level of staff or other resources ITU must divert from work required to implement projects and activities included in the approved strategic and operational plans or the timing of the work required from the ITU to support its participation in the MOU would exceed authorized and approved budgets or impair the ITU’s ability to achieve objectives contained in the strategic or operational plans; or
4. The ITU’s participation in the MOU would be obviously outside the mandate of the ITU as reflected in the ITU Constitution, Convention and Resolutions, or not within the financial, strategic, or operational plans of the Union;

3.2 Furthermore, the Secretary-General should bring to Council’s attention proposed MOUs if he/she is of the view that such MOUs would raise highly sensitive strategic and/or financial issues, even if none of the criteria above are met.

1. **Guidelines for Obtaining Council Review and Guidance of ITU Participation in MOUs with Significant Financial and/or Strategic Implications**

Consistent with the Resolution 192 instruction to Council “to implement a mechanism to review ITU participation in MOUs, that have financial and/or strategic implications, and to provide guidance to the Secretary-General,” the following guidelines should be followed to obtain Council review and guidance for ITU participation only in MOUs with significant financial and/or strategic implications as determined by the criteria in 3 above:

1. The Secretary-General, or his or her designee, will assess whether the criteria described above for determining if an MOU will have significant financial and/or strategic implications would be met by a proposed MOU;
2. For MOUs which the Secretary-General has assessed as having significant financial and/or strategic implications, the later will prepare a contribution for Council describing the proposed MOU, the activity that would be required to be performed by ITU if it were to participate in the MOU, and the strategic impact such participation could have, as well as the financial and/or other resources that ITU would be required to expend to perform its obligations under the proposed MOU. In addition, the specific ITU Bureau, or, as appropriate, the Department of the General Secretariat, responsible for the MOU should be identified;
3. The Secretary-General shall provide this contribution to Council for review and guidance and based on that guidance, the Secretary-General may enter into the MOU on behalf of the ITU;
4. If the Secretary General determines that urgent circumstances require entry into an MOU prior to Council’s review and guidance, the Secretary-General or his designated representative shall include an explicit provision in the MOU allowing for termination or amendment and noting that the ITU Council could require termination or modification of the MOU;
5. Upon conclusion of the activity contemplated by the MOU, the Secretary-General shall provide a report to Council describing the outcomes achieved, the resources expended, and the next steps, if any, anticipated as a result of the completion of the MOU; and
6. In addition to these reports, the Secretary-General shall provide annually to Council a list of all MOUs it entered into since the last ordinary session of the Council.

1. 1 Wherever the term "MOU"" is used in this resolution, it includes memoranda of cooperation and memoranda of agreement. [↑](#footnote-ref-1)