|  |  |
| --- | --- |
| **Plenipotentiary Conference (PP-22)Bucharest, 26 September – 14 October 2022** |  |
|  |  |
|  |  |
| PLENARY MEETING | **Addendum 22 toDocument 76-E** |
|  | **1 September 2022** |
|  | **Original: English** |
|  |
| Member States of the Inter-American Telecommunication Commission (CITEL) |
| IAP 22 - PROPOSED NEW DRAFT RESOLUTION [IAP-3] |
| ITU PARTICIPATION IN MEMORANDA OF UNDERSTANDING WITH FINANCIAL AND/OR STRATEGIC IMPLICATIONS |
|  |

**Abstract:**

This proposal is for a new Resolution in order to ensure that Memoranda of Understanding (MOUs) with strategic or financial implications are only entered into with Council’s prior approval taking into consideration the views of member Administrations.

CITEL believes that in order to clarify the process for approving MOUs with strategic and/or financial implications a new Resolution is needed. CITEL believes that the ITU should enter into MOUs that have important financial and strategic impact following review and input of its member Administrations. Greater transparency would allow the ITU Council to better fulfil its duties regarding the overall financial and strategic direction of the ITU. This new Resolution clarifies the role of Council with respect to such MOUs and ensure a transparent and participatory process for the ITU to enter into MOUs with strategic and/or financial implications.

ADD IAP/76A22/1

Draft New Resolution [IAP-3]

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

The Plenipotentiary Conference of the International Telecommunication Union (Bucharest 2022),

considering

*a)* 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;

*b)* 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 nongovernmental organizations concerned with telecommunications,

noting

that memoranda of understanding (MoU) as well as memoranda of cooperation and agreement[[1]](#footnote-2)1 or other instruments, in which ITU, Member States and Sector Members may participate, are often used to facilitate cooperative action,

observing

that the Union has entered into MoUs in which ITU is a participant that have financial and/or strategic implications,

believing

that MoUs in which ITU is a participant that have financial and/or strategic implications should only be entered into pursuant to criteria adopted by the Council and subject to Council approval,

resolves

1 that MoUs in which the ITU is a participant that have substantial financial and/or strategic implications should only be entered into subject to Council’s prior approval;

2 that the Secretary-General shall submit to the ordinary session of the Council for prior approval any MoUs that have substantial financial and/or strategic implications;

3 that the Secretary-General shall follow the criteria and guidelines contained in Annex 1 to this resolution when entering into MoUs in which ITU will be a participant that have financial and/or strategic implications;

4 that a report on all MoUs entered into by ITU during the relevant period will continue to be submitted to the ordinary session of the Council;

5 that the Council, when considering ITU’s participation in MoUs that have substantial financial and/or strategic implications, shall apply the following principles:

 i) that any involvement of the Secretary-General in this capacity should contribute to and be within the purposes of the Union as set forth in Article 1 of the Constitution, and within the strategic and financial plans of the Union;

 ii) that Member States and Sector Members will be kept informed of the activities of ITU when it participates in MoUs that have substantial financial and/or strategic implications;

 iii) that the sovereignty and rights of ITU Member States are fully respected and preserved;

6 that the activity above shall be covered within the Council’s report to the Plenipotentiary Conference on the implementation of the Strategic Plan and the activities of the Union.

Annex 1

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 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 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, or to MOUs the ITU enters into that 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:

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 to have significant financial and/or strategic implications if one of the following criteria is met:

a) ITU participation in the MOU would require expenditures by the ITU of amounts that would create budgetary imbalances;

b) 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;

c) 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

d) The ITU’s participation in the MOU would be 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 raise sensitive strategic and/or financial issues, even if none of the criteria above are met.

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

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, in keeping with this resolution, 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 having significant financial and/or strategic implications, the Secretary General 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 the next session of Council for review and guidance and based on that guidance, the Secretary-General may enter into the MOU on behalf of the ITU if approved by Council;

4) If the Secretary General determines that demonstrable urgent circumstances require entry into an MOU prior to Council’s review and guidance, the Secretary-General or her/his designated representative shall include an explicit provision in the MOU allowing for termination or amendment with immediate effect 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

In addition to these reports, the Secretary-General shall provide annually to Council a list of all MOUs in effect and the activities undertaken pursuant thereto.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. 1 Wherever the term "MoU" is used in this resolution, it includes memoranda of cooperation and memoranda of agreement. [↑](#footnote-ref-2)