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AFRICA REGION'S PROPOSALS TO THE REVIEW OF THE ITRS

The following proposals were developed at the second Africa Region Preparatory Meeting for the WCIT-12 held in Durban, South Africa 21 to 24 May 2012.

The African Member States reserve their right to submit additional proposals and/or comments, and reserves their right to revise any of the submitted proposals as appropriate.

The proposals below are presented without prejudice to the African Region or African Member States proposals already submitted to CWG-WCIT12, which should not be modified or removed from the CWG-WCIT12's compilation of proposals documents. Member States in the African Region reserve their right to modify or withdraw, in the future, proposals that they submitted to CWG-WCIT12.

NOC CWG/54/0.0

International Telecommunication Regulations

NOC CWG/54/0.1

PREAMBLE

Reasons: title and title of Preamble remain unchanged.

MOD CWG/54/0.2

1 While the sovereign right of each ~~country-state~~ to regulate its telecommunications is fully recognized, the provisions of the present International Telecommunication Regulations ~~[(hereinafter "Regulations")] supplement complement~~ the Constitution and Convention of the International Telecommunication Union Convention, with a view to attaining the purposes of the International Telecommunication Union in promoting the development of telecommunication services and their most efficient operation while harmonizing the development of facilities for world-wide telecommunications.

Reasons:

The term "state" is the one used in the Constitution.

The term "complement" is the one used in the Constitution.

NOC CWG/54/1.0

ARTICLE I

Purpose and Scope of the Regulations

Reasons: title of Article 1 remains unchanged.

MOD CWG/54/1.3

2 1.1 a) These Regulations establish general principles which relate to the provision and operation of international telecommunication services offered to the public as well as to the underlying international telecommunication transport means used to provide such services. These ~~se~~ Regulations also set rules applicable to Member States and Operating Agencies ~~*administrations~~.

* The term "operating agency" includes "recognized operating agency" and is used in that sense throughout these Regulations.

MOD CWG/54/1.5

3 b) These Regulations recognize ~~in Article 9~~ the right of Members States to allow special arrangements as provided in Article 9.

~~ADD~~ CWG/54/1.8B

~~3B~~ (d) Member States shall ensure that telecommunications relating to safety of life (distress), including for prevention, relief, and mitigation in emergency situations, are given absolute priority, as provided in Article 5.

Reasons:

"[...]”, Consider moving this provision to Article 5, being a mandate rather than a scope.

NOC CWG/54/1.9

4 1.2 In these Regulations, "the public" is used in the sense of the population, including governmental and legal bodies.

MOD CWG/54/1.11

5 1.3 These Regulations are established with a view to facilitating global interconnection and interoperability of telecommunication facilities and to promoting the harmonious development and efficient operation of technical facilities, as well as the efficiency, usefulness and availability to the public and the security of international telecommunication services.

MOD CWG/54/1.13

6 1.4 Unless otherwise specified in these Regulations, rReferences to ~~CCITT~~ [ITU-T | ITU] Recommendations [and Instructions] in these Regulations are not to be taken as giving to those Recommendations [and Instructions] the same legal status as the Regulations.

SUP CWG/54/1.16

~~7 1.5 Within the framework of the present Regulations, the provision and operation of international telecommunication services in each relation is pursuant to mutual agreement between administrations.~~

Reasons:

Africa supports suppression.

MOD CWG/54/1.16B

8 1.6 In implementing the principles of these Regulations, administrations Member States should take measures to ensure that Operating Agencies to comply with, to the greatest extent practicable, the relevant ~~CCITT~~ ITU-T Recommendations, ~~including any Instructions forming part of or derived from these Recommendations.~~

MOD CWG/54/1.19

9 1.7 a) These Regulations recognize the right of any Member State, subject to national law and should it decide to do so, to require that ~~administrations*~~ Operating Agencies, which operate in its territory and provide an international telecommunication service to the public, be authorized by that Member State.

Reasons:

Member States have the sovereign right to impose obligations in accordance with national law, on all Operating Agencies, not just on Recognized Operating Agencies.

SUP CWG/54/1.22

10 ~~b) The Member concerned shall, as appropriate, encourage the application of relevant CCITT Recommendations by such service providers.~~

Reasons:

This provision seems to be very similar to 1.6 and should be suppressed as there is a need to avoid repetition.

SUP CWG/54/1.25

11 ~~c) The Member, where appropriate, shall cooperate in implementing the International Telecommunication Regulations.~~

NOC CWG/54/1.26

12 1.8 The Regulations shall apply, regardless of the means of transmission used, so far as the Radio Regulations do not provide otherwise.

NOC CWG/54/1.27

Reasons:

No new 1.9

NOC CWG/54/2.0

ARTICLE 2

[Definitions]

[NOC CWG/54/3.0]

Reasons:

Article 2 is deleted temporarily. Africa shall consider later Article 2 after concluding the discussions on the other articles of the ITRs.

ARTICLE 3

International Network

Reasons: title of Article 3 remains unchanged.

MOD CWG/54/3.2

28 3.1 Members States shall ensure that ~~administrations*~~ Operating Agencies cooperate in the establishment, operation and maintenance of the international network to provide a

satisfactory quality of service [and above a minimum level corresponding to the relevant ITU-T Recommendation].

Reasons:

The provision imposes a requirement to cooperate, not a requirement to provide a particular level of quality of service. Further, it refers only to the international network, not the national network.

It was noted that reliance only on market forces according to competition mechanism to improve QoS offered to the users has not worked in many instances, but in the contrary, there exist agility in offering low quality services that makes the consumer more often prone to be a victim for such deteriorated services, in particular those based on VoIP. Assuring a level of QoS above a minimum set by the relevant ITU-T Recommendation shall help to a great extent to preserve user's rights.

MOD CWG/54/3.4

29 3.2 Member States Administrations* shall endeavour to establish policies that promote the provision of technical facilities that support ~~provide sufficient telecommunication facilities to meet the requirements of and demand for~~ international telecommunication services, and shall ensure that Operating Agencies endeavour to provide sufficient telecommunication facilities to meet the requirements and demand for these services.

MOD CWG/54/3.10

30 3.3 [Member States/Operating Agencies shall have the right to know which international routes are used for carrying traffic.] Administrations* shall determine by mutual agreement which international routes are to be used. Pending agreement and provided that there is no direct route existing between the terminal administrations concerned, the origin administration has the choice to determine the routing of its outgoing telecommunication traffic, taking into account the interests of the relevant transit and destination administrations.

REASONS: Africa does not support the concept that Member States impose routing.

MOD CWG/54/3.14

31 3.4 Subject to national law, any user, by having access to the international network established by an ~~administration-Operating Agency~~, has the right to send traffic. A satisfactory quality of service [and above a minimum level] should be maintained to the greatest extent practicable and as much as possible corresponding to relevant ~~CEPT~~ ITU-T Recommendations.

ADD CWG/54/3.21

31A 3.5 Member States shall ensure that the legal and regulatory frameworks and instruments applicable in their territories shall mandate Operating Agencies which operate in their territory and provide international telecommunication services offered to the public to apply the ITU-T Resolutions and Recommendations relating to naming, numbering, addressing and identification. Member States shall ensure that these resources are used only by the assignees and only for the purposes for which they were assigned; and that unassigned resources are not used.

ADD CWG/54/3.34

31B 3.6 Member states shall, through various channels open to them, ensure that Operating Agencies implement Calling Line Identification (CLI) features, where technically possible, including at least presentation of country code, national destination code or equivalent origination identifiers in accordance with the relevant ITU-T Recommendations; ensure that integrity of the CLI is maintained end-to-end; ensure that the requirements associated with data protection and data privacy are met, but such masked information shall be made available to duly authorized law enforcement agencies. Member States may impose additional obligations.

Reasons:

This provision addresses various requirements related to: identification of the source of the communication, non-spoofing (integrity end to end) of the CLI, catering for data privacy and protection, and the right to unveil the origin of the communication subject to a proper legal procedure.

NOC CWG/54/3.40

31C

Reasons:

No new 3.7 (international Internet connectivity)

The basic principles contained in the text proposed by Paraguay should be reflected in the revised version of Article 6. Additional details proposed by Paraguay could be considered for adoption in a Resolution.

NOC CWG/54/3.42

31D

Reasons:

No new 3.8 (right to transmit traffic)

NOC CWG/54/4.0

ARTICLE 4

International Telecommunication Services

Reasons: title of Article 4 remains unchanged.

MOD CWG/54/4.3

32 4.1 Members ~~and States~~ shall promote the implementation of international telecommunication services and shall endeavour to ensure that Operating Agencies make such services generally available to the public in their national network(s).

MOD CWG/54/4.6

33 4.2 Members States shall ensure that ~~administrations*~~ Operating Agencies cooperate within the framework of these Regulations to provide by mutual agreement, a wide range of international telecommunication services which should conform, to the greatest extent practicable, to the relevant ~~CCITT~~ ITU-T Recommendations.

MOD CWG/54/4.10

34 4.3 Subject to national law, Members States shall endeavour to ensure that ~~administrations*~~ Operating Agencies provide and maintain, to the greatest extent practicable, a ~~satisfactory minimum~~ quality of service corresponding to the relevant ~~CCITT~~ ITU-T Recommendations with respect to:

MOD CWG/54/4.12A

35 a) access to the international network by users using terminals which are permitted to be connected to the network and which do not cause harm to technical facilities and personnel or to the public;

MOD CWG/54/4.16

36 b) international telecommunication facilities and services available to customers for their ~~dedicated~~ use;

NOC CWG/54/4.17

37 c) at least a form of telecommunication which is reasonably accessible to the public, including those who may not be subscribers to a specific telecommunication service; and

NOC CWG/54/4.19

38 d) a capability for interworking between different services, as appropriate, to facilitate international communications.

ADD CWG/54/4.23

38A 4.4 Members States shall ensure transparency of end-user prices and the provision of clear information on how to access the services and the prices thereof, in particular to avoid unreasonable or surprising bills for international services (e.g mobile roaming and data roaming), and shall ensure that Operating Agencies take the necessary measures to fulfill these requirements.

Reasons:

May consider whether separate provisions are needed for roaming or whether roaming will be covered by general provisions.

NOC CWG/54/5.0

ARTICLE 5

Safety of Life and Priority of Telecommunication

Reasons: title of Article 1 remains unchanged.

MOD CWG/54/5.3

39 5.1 Member States shall adopt policies that, to the greatest extent practicable, ensure that sSafety of life telecommunications, such as distress telecommunications, ~~are shall be~~ entitled to transmission as of right and, where technically practicable, have absolute priority over all other telecommunications, in accordance with the relevant Articles of the Constitution and Convention and taking due account of relevant ~~CCITT~~ ITU-T Recommendations.

ADD ~~CWG/54/1.8B~~

~~3B~~ d) Member States shall ensure that telecommunications relating to safety of life (distress), including for prevention, relief, and mitigation in emergency situations, are given absolute priority.

SUP CWG/54/5.6

~~40~~ ~~5.2 Government telecommunications, including telecommunications relative to the application of certain provisions of the United Nations Charter, shall, where technically practicable, enjoy priority over telecommunications other than those referred to in No. 39, in accordance with the relevant provisions of the Convention and taking due account of relevant CCITT Recommendations.~~

MOD CWG/54/5.7

41 5.3 The provisions governing the priority enjoyed by any all other telecommunication services are contained in the relevant ~~CCITT~~ ITU-T Recommendations.

NOC CWG/54/5.9

41A

Reasons:

No new 5.4

ADD CWG/54/5.14

41C 5.6 Member States shall ensure that Operating Agencies inform all users, including roaming users, in good time and free of charge, of the number to be used for calls to the emergency services.

~~Article 6~~

SUB Article 6

Reasons: Suppress most of the existing provisions of article 6, except for selected provisions 6.1.3, 6.2, 6.7 , 6.41A, which should be moved into the new Article 6 shown below.

MOD CWG/54/6.51

ARTICLE 6

Economic and Policy Issues Charging and Accounting

[Reasons: Change in title.

NOC CWG/54/6.51A

54R

Reasons:

No new article 6].

ADD CWG/54/6.51B

54R [6.A Member States shall ensure transparency with respect to retail and wholesale prices, costs, and quality of service.]

6.B [Member States should foster continued investment in high-bandwidth infrastructures.]

6.C [Member States shall [take measures to] ensure that prices are oriented on costs. Regulatory measures may be imposed to the extent that this cannot be achieved through market mechanisms.]

SUP 6D

~~6.D [Member States shall take measures to ensure that an adequate return is provided on investments in network infrastructures. If this cannot be achieved through market mechanisms, then other mechanisms may be used.]~~

NOC CWG/54/6.11A

~~45~~ ~~[6.1.3D~~ Where, in accordance with the national law of a country, a fiscal tax is levied on collection charges for international telecommunication services, this tax shall normally be collected only in respect of international services billed to customers in that country, unless other arrangements are made to meet special circumstances.]

6.E [Member States shall [take measures to] ensure that fair compensation is received for carried traffic (e.g. interconnection or termination). Regulatory measures may be imposed to the extent that this cannot be achieved through market mechanisms.]

6.F [The right to create universal service funds or universal service obligations is reserved.]

Reasons:

This ADD is combined with SUP existing text of article 6 (except for 6.1.3 (see above), 6.2.1, 6.7, and 6.12 shown below)

MOD CWG/54/6.20

46 **6.2 Accounting, transit and termination rates**

47 ~~6.2.1~~ For each applicable service in a given relation, [administrations]^{*} or Operating Agencies shall by mutual agreement, on the basis of cost orientation, establish and revise accounting, transit and termination rates to be applied between them, in accordance with the provisions of Appendix 1 and taking into account relevant ITU-T ~~CCIT~~ Recommendations and relevant cost trends.

ADD CWG/54/6.36B

54B 6.7 Member States shall ensure that each party in a negotiation or agreement related to or arising out of international connectivity matters, will have access to alternative dispute resolution mechanisms and will have standing to have recourse to the relevant regulatory or competition authorities of the other party's state, [this dispute resolution mechanism may also be by a body mutually agreeable to the parties of the dispute (a neutral body in one of the concerned countries or by a neutral international body, or as agreed by the concerned parties).]

Reasons:

A new provision on settlement of disputes by a body mutually agreeable to the parties in dispute (for example by a neutral body in one of the concerned countries or by a neutral international body). Text is proposed.

ADD CWG/54/6.41A

54G 6.12 Member States shall ensure that rates (in particular transit rates, termination rates, and roaming rates) are cost-oriented.

SUP CWG/54/6.51C

Suppress existing provisions of article 6, except those shown above. If required, the existing provisions can be moved into another document, for example a Resolution.

Reasons: Replace existing provisions of article 6 with new provisions above.

NOC CWG/54/7.0

ARTICLE 7

Suspension of Services

Reasons: title of Article 1 remains unchanged.

MOD CWG/54/7.1

55 7.1 If a Member State exercises its right in accordance with the Constitution and Convention to suspend international telecommunication services partially or totally, that Member State shall immediately notify the Secretary-General of the suspension and of the subsequent return to normal conditions by the most appropriate means of communication.

MOD CWG/54/7.2

55 7.2 The Secretary-General shall immediately bring such information to the attention of all other Members States, using the most appropriate means of communication.

NOC CWG/54/7.3

55A

Reasons:

This and the following Article 7 provisions are duplication of the CS provisions. No new 7.3 (intercommunication).

NOC CWG/54/7.5

55B

Reasons:

No new 7.4 (secret language).

NOC CWG/54/7.7

55C

Reasons:

No new 7.5 (stoppage of telecommunications).

NOC CWG/54/7.9

55D

Reasons:

No new 7.6 (suspension of services).

NOC CWG/54/7.11

55E

Reasons:

No new 7.7 (responsibility).

NOC CWG/54/7.13

55F

Reasons:

No new 7.8 (secrecy of telecommunications).

NOC CWG/54/8.0

ARTICLE 8

Dissemination of Information

Reasons: title of Article 1 remains unchanged.

MOD CWG/54/8.2A

57 Using the most suitable and economical means, the Secretary-General shall disseminate information, provided by ~~administrations*~~ Member States, of an administrative, operational, tariff or statistical nature concerning international telecommunication routes and services. Such information shall be disseminated in accordance with the relevant provisions of the Constitution and Convention and of this Article, on the basis of decisions taken by the Council or by competent conferences, and taking account of conclusions or decisions of competent assemblies. If so authorized by the concerned Member State, the information may be transmitted to the Secretary-General directly by an Operating Agency and shall then be disseminated by the Secretary-General.

NOC CWG/54/8.4

57A

Reasons:

No new 8.2 (notification of infringements).

ADD CWG/54/8A.1

ARTICLE 8A

Security [of telecommunications facilities and services]

Reasons: Add a new article on security.

ADD CWG/54/8A.5

57B 8A.1 Member States should cooperate regarding telecommunications security matters (including cybersecurity), in particular to develop technical standards and acceptable legal norms, including among others those regarding territorial jurisdiction and sovereign responsibility.

8A.2 Member States shall cooperate to harmonize national laws, jurisdictions, and practices in the areas of: the investigation and prosecution of cybercrime (including eavesdropping and breach of privacy of telecommunications); data preservation, retention, protection (including personal data protection), and privacy; and approaches for network defense and response to cyberattacks.

8A.3 [Protection of critical infrastructure: text to be developed]

8A.4 [Member States shall ensure that intercept and monitoring of international telecommunications be subject to due process authorized in accordance with national law.]

Reasons: This proposal is related to the part in square brackets for the title.

ARTICLE 8B

Countering spam

Reasons: Add a new article on countering spam.

ADD CWG/54/8B.2

57C Member States are encouraged:

a) to adopt national legislation to act against spam;

b) to cooperate to take actions to counter spam;

c) to exchange information on national findings/actions to counter spam.

Reasons: The text may be further revised.

The proposal in 8B.3 is not supported.

NOC CWG/54/9.0

ARTICLE 9

Special Arrangements

Reasons: title of Article 1 remains unchanged.

MOD CWG/54/9.2A

58 9.1 a) ~~Pursuant to Article 31 of the International Telecommunication Convention (Nairobi, 1982),~~ Pursuant to Article 42 of the Constitution, special arrangements may be entered into on telecommunication matters which do not concern Members States in general. Subject to national laws, Members States may allow ~~administrations*~~ Operating Agencies or other organizations or persons to enter into such special mutual arrangements with ~~Members, administrations*~~ Operating Agencies or other organizations or persons that are so allowed in another country for the establishment, operation, and use of special telecommunication networks, systems and services, in order to meet specialized international telecommunication needs within and/or between the territories of the Members States concerned, and including, as necessary, those financial, technical, or operating conditions to be observed.

MOD CWG/54/9.7

59 b) Any such special arrangements should avoid technical or financial harm to the operation of the telecommunications of third parties.

MOD CWG/54/9.11

60 9.2 Members States should, where appropriate, encourage the parties to any special arrangements that are made pursuant to 9.1 above No. 58(9.1) to take into account relevant provisions of ITU-T CCITT Recommendations.

ARTICLE 10

Entry into force and provisional application~~Final Provisions~~

Reasons: reflect new content of Article 10.

ADD CWG/54/10.1

61A These Regulations, of which [Appendices 1, 2 and 3 form integral parts], and which complement the provisions of the Constitution and Convention of the International Telecommunication Union, shall enter into force on 1 January 2015 and shall be applied as of that date pursuant to Article 54 of the Constitution.

Reasons: SUP 10.1 through 10.4 to align with RR.