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TO PREPARE FOR THE 2012 WORLD
CONFERENCE ON INTERNATIONAL
TELECOMMUNICATIONS**

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CURRENT STATUS OF THE INTER-AMERICAN PROPOSALS FOR WCIT-12

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IAP-1: PROPOSAL TO REVIEW AND REVISE THE INTERNATIONAL TELECOMMUNICATION REGULATIONS AT THE 2012 WORLD CONFERENCE ON INTERNATIONAL TELECOMMUNICATIONS

Background

The 2010 Plenipotentiary Conference (PP-10) adopted Resolution 171 (Guadalajara, 2010), which defines the scope of review of the International Telecommunication Regulations (ITRs) and establishes the preparatory process for the 2012 World Conference on International Telecommunications (WCIT-12).

With respect to the scope of review of the ITRs, PP-10 resolved to consider and study all relevant work and outputs that have been developed in the ITU regarding the ITRs; to discuss and examine all proposals for revision to the ITRs, including proposals for the addition of new and emerging issues, for updating and suppression of provisions and/or for abrogation as appropriate; and to discuss and examine all proposals for revision to the ITRs, provided that those proposals:

- i) are consistent with the purposes of the Union set forth in Article 1 of the ITU Constitution;
- ii) are in line with the scope and purpose of the ITRs as set out in its Article 1, with the understanding that CWG-WCIT 12 could consider proposals for the revision of Article 1 of the ITRs;
- iii) reflect, inter alia, strategic and policy principles, with a view to ensuring flexibility in order to accommodate technological advances;
- iv) are of relevance to be included in an international treaty.”

In addition, PP-10 also resolved that the Council Working Group to prepare for the 2012 World Conference on International Telecommunications (CWG-WCIT-12) will constitute the preparatory process for WCIT-12 that will take into consideration the results of the regional preparatory meetings.

Proposal

CITEL Member States welcome the opportunity to discuss all proposals for revisions to the ITRs, pursuant to the guidelines adopted in Resolution 171 (Guadalajara, 2010). To that end, the CWG-WCIT-12 should discuss all issues, including new and emerging issues, provided any provisions proposed for inclusion in the ITRs are consistent with the scope of review outlined in Resolution 171 (Guadalajara, 2010).

In addition, CITEL Member States are of the view that any proposed revisions to the ITRs should be evaluated in the context of the enormous changes that have occurred in the international telecommunications market since the ITRs were last revised in 1988. The current provisions of the ITRs reflect an environment where predominately monopoly international carriers

exchanged traffic with each other and where the only services were fixed voice telephone and telegraph. In today's competitive environment multiple carriers compete with each other to exchange international telephone traffic using services other than the fixed telephone. Considering this competitive environment, CITELE Member States believe that detailed regulatory provisions governing the exchange of international traffic are not necessary and, indeed, could impede further innovation.

CITELE Member States propose that all revisions to the ITRs reflect points a) through d) in the Background section of this document.

IAP 2: PROPOSAL IN SUPPORT OF AVOIDING OVERLAPS BETWEEN RADIO REGULATIONS AND THE ITRs, AND MAINTAINING ALL RADIO-SPECIFIC REGULATIONS WITHIN THE RADIO REGULATION

Background

The ITU maintains four treaty documents- the Constitution (CS), the Convention (CV), the ITRs, and Radio Regulations (RRs) –that have different scopes and purposes. Article 4 of the ITU Constitution established a hierarchy among these four instruments, with the Constitution as the supreme instrument, and the Convention as an instrument of somewhat lesser importance and the Administrative Regulations (the ITRs and RRs) as inferior to both the CS and CV:

- 31** 3 The provisions of both this Constitution and the Convention are further complemented by those of the Administrative Regulations, enumerated below, which regulate the use of telecommunications and shall be binding on all Member States:
- PP-98**
- International Telecommunication Regulations,
 - Radio Regulations.
- 32** 4 In the case of inconsistency between a provision of this Constitution and a provision of the Convention or of the Administrative Regulations, the Constitution shall prevail. In the case of inconsistency between a provision of the Convention and a provision of the Administrative Regulations, the Convention shall prevail.

Note that while Article 4 of the ITU Constitution establishes that the provisions of both the CS and the CV have priority over those of the Administrative Regulations, Article 4 does not establish a hierarchy between the ITRs and the RRs. Article 1 (1.8)¹ of the ITRs addresses the potential overlap in the provisions of the ITRs and the RRS. Any revision of the ITRs shall maintain this provision because otherwise, based on established international law, if there are inconsistencies between these two Administrative Regulations, then the provisions in the latest treaty would likely prevail. In summary, the function of the ITRs should be to complement, but not conflict with, overlap or repeat, the provisions of the CS, the CV and the RRs.

¹ Article 1 (1.8) of the International Telecommunication Regulations (1988) states, “*The Regulations shall apply, regardless of the means of transmission used, so far as the Radio Regulations do not provide otherwise.*”

As a general matter, it would be highly beneficial if all regulations specific to radiocommunications within the ITU's Administrative Regulations were contained within the Radio Regulations where they may be addressed by a competent WRC, as needed. This would avoid the need to track and ensure consistency between two treaties that have equal status, noting that this problem does not exist in any overlaps that may occur between the RRs and the CS/CV since it is clear that in all cases the CS/CV supersedes the RRs.

Proposal

The CITEL Administrations support avoiding overlaps between the revised ITRs and the Radio Regulations. As a general matter, CITEL Administrations consider that all ITU's administrative regulations specific to radiocommunications should be contained within the Radio Regulations where they may be addressed by a competent World Radiocommunication Conference (WRC), as needed.

IAP 3: PROPOSAL IN SUPPORT OF MAINTAINING THE VOLUNTARY NATURE OF ITU-T RECOMMENDATIONS

Background

The existing Article 1.4 of the ITRs states *“References to CCITT 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.”* As a general matter, the ITU-R Recommendations are also voluntary. Only a very few ITU-R Recommendations are explicitly adopted into the Radio Regulations by reference. This is only done for the purpose of providing any necessary technical details that are required for the implementation of a specific provision of the Radio Regulations. In all cases, this is to ensure technical compatibility among applications of radio services that operate in accordance with the Radio Regulations. None of the ITU-T Recommendations have a comparable purpose since that they do not provide technical details that would be required to enforce any provisions of the ITRs. There is neither a technical nor a regulatory basis for giving any of the ITU-T Recommendations the same legal status as the very general, high level provisions contained in the ITRs

Proposal

CITEL Administrations support maintaining the existing Article 1.4 of the ITRs, with the appropriate editorial revision to change “CCITT” to “ITU-T”, which establishes that the ITU-T Recommendations are voluntary for ITU Member States.

IAP 4: PROPOSAL FOR A NEW RESOLUTION OF THE WORLD CONFERENCE ON INTERNATIONAL TELECOMMUNICATIONS (WCIT-12)

Introduction

The world's countries have been making substantial efforts to achieve the Millennium Development Goals (MDGs) and those of the World Summit on the Information Society (WSIS). Thus, in many countries, the deployment of a network infrastructure and information and communication technology applications that, if possible, use broadband and other innovative technologies more widely, has become a priority on their development agendas.

Government have understood the need for public policymaking and the importance of telecommunication regulation that would make it possible to speed up the economic and social progress of their countries, as well as the well-being of all persons, communities and peoples.

Landlocked developing countries would like to raise awareness about the obstacle that the current difficulty in securing access to the international fiber optic network is to the progress of their communities, as this network is an indispensable tool for trade and, above all, for knowledge.

The present proposal is aimed at promoting a new paradigm, one involving close cooperation between landlocked and transit countries that would enable joint and regional growth and bridge the digital divide between countries, in search of a genuine and fully integrated society of knowledge.

Background

The 2010 Plenipotentiary Conference (PP-10) adopted Resolution 30 (Rev. Guadalajara, 2010), which defines special measures for the least developed countries, small island developing states, landlocked developing countries and countries with economies in transition.

Additionally, the Almaty Programme of Action, adopted by the United Nations, addresses the special needs of landlocked developing countries and establishes a new global framework for transit transport cooperation for landlocked and transit developing countries.

However, these instruments need to be complemented to enable landlocked developing countries to achieve the Millennium Development Goals (MDGs) and those of the World Summit on the Information Society (WSIS), in view of the difficulties encountered and additional costs incurred by these countries in accessing the international fiber optic network.

Proposal

That the Member States of CITELE avail themselves of the opportunity to adopt, at the upcoming World Conference on International Telecommunications (WCIT-12), special measures for landlocked developing countries that afford them greater and easier access to the international fiber optic network.

To that end, the Member States of CITELE propose that the World Conference on International Telecommunications (WCIT-12) adopt a new resolution, presented below.

NEW RESOLUTION (Dubai, 2012)

**Special measures for landlocked developing countries (LLDCs)
for access to the international fiber optic network**

(Dubai, 2012)

The World Conference on International Telecommunications (Dubai, 2012),

considering

- a) Resolution A/RES/65/172 of 20 December 2010 of the United Nations General Assembly on specific actions related to the particular needs and problems of landlocked developing countries;
- b) Resolution 30 (Rev. Guadalajara, 2010) of the Plenipotentiary Conference (PP) on special measures for the least developed countries, small island developing states, landlocked developing countries and countries with economies in transition;
- c) The Declarations of the Ministers of Communications of the Union of South American Nations (UNASUR) and the roadmap for South American connectivity for integration of the Telecommunications Working Group of the South American Infrastructure and Planning Council (COSIPLAN) of UNASUR;
- d) In Mandate No. 7 arising from the Sixth Summit of the Americas, held in Cartagena, Colombia, on April 14 and 15, 2012, the Heads of State and Government of the Americas resolved *“To foster increased connection of telecommunication networks in general, including fiber optic and broadband, among the region’s countries, as well as international connections, to improve connectivity, increase the dynamism of communications between the nations of the Americas, as well as reduce international data transmission costs, and, thus, promote access, connectivity, and convergent services to all social sectors in the Americas.”* ,

considering also

- a) the Millennium Declaration and the 2005 World Summit Outcome;
- b) the outcomes of the Geneva (2003) and Tunis (2005) phases of the World Summit on the Information Society (WSIS);

c) the Almaty Declaration and Programme of Action: Addressing the Special Needs of Landlocked Developing Countries within a New Global Framework for Transit Transport Cooperation for Landlocked and Transit Developing Countries,

recalling

the New Partnership for Africa's Development, an initiative to intensify economic cooperation and development at the regional level, since many landlocked developing and transit countries are found in Africa,

reaffirming

the right of access of landlocked countries to and from the sea and freedom of transit through the territory of transit countries by all means of transport, in accordance with the applicable rules of international law,

reaffirming also

that transit countries, in the exercise of their full sovereignty over their territory, have the right to adopt all measures necessary to ensure that the rights and facilities provided for landlocked countries in no way infringe upon their legitimate interests,

recognizing

the importance to the development of LLDCs of telecommunications and the new information and communication technologies (ICT),

observing

that access by LLDCs to the international fiber optic network and the laying of fiber optic cable through transit countries is not one of the infrastructure development and maintenance priorities set forth in the Almaty Programme of Action,

concerned

since this difficulty affecting LLDCs continues to jeopardize their development agendas,

conscious

- a) that fiber optic cable is a profitable telecommunications transport medium;
- b) that access within landlocked countries to the international fiber optic network will promote their integral development and the potential for them to create their own Information Society,

conscious also

- a) that the planning and laying of the international fiber optic network calls for close cooperation between landlocked and transit countries;
- b) that in making the basic investment in laying fiber optic cable, capital investments by the private sector are required,

instructs the Secretary-General and the Director of the Telecommunication Development Bureau

1 that studies of the situation of telecommunication/ICT services in the LLDCs should emphasize the importance of access to the international fiber optic network;

2 that they propose to the ITU Council specific measures designed to ensure genuine progress and provide LLDCs with effective assistance in connection with *instructs 1*;

3 to provide the administrative and operational structure necessary to develop a strategic plan that contains practical guidelines and criteria to govern and promote regional, subregional, multilateral, and bilateral projects affording LLDCs greater access to the international fiber optic network,

requests the Secretary-General

to transmit the text of this resolution to the Secretary-General of the United Nations with a view to bringing it to the attention of the United Nations High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States,

instructs the Council

to take appropriate measures to ensure that the Union continues to collaborate actively in developing telecommunication/ICT services in LLDCs,

encourages landlocked developing countries

to continue to accord high priority to telecommunication/ICT activities and projects that promote integral socioeconomic development, adopting technical cooperation activities financed from bilateral or multilateral sources that will benefit the general public,

urges the Member States

1 to cooperate with landlocked countries by promoting regional, subregional, multilateral, and bilateral projects for telecommunication infrastructure integration that afford LLDCs greater access to the international fiber optic network;

2 to include and/or maintain in South-South and triangular cooperation programs with donor participation, and in cooperation among subregional and regional organizations, actions complementing the Almaty Programme of Action to assist landlocked developing and transit countries in executing these telecommunication infrastructure integration projects,

invites the Member States and Sector Members and Associates

to continue support the work of ITU-D in studies of the situation of telecommunication/ICT services in the least developed countries, LLDCs, small island developing states, and countries with economies in transition so identified by the United Nations and requiring special measures for telecommunication/ICT development.

IAP 5: PROPOSAL TO KEEP THE CURRENT DEFINITION OF “TELECOMMUNICATION” AND “INTERNATIONAL TELECOMMUNICATION SERVICE” OF THE INTERNATIONAL TELECOMMUNICATION REGULATIONS (ITRs)

Introduction

Pursuant to Resolution 171 of the Plenipotentiary Conference (Guadalajara, 2010), it was resolved, inter alia, that the ITU Council Working Group to prepare for the 2012 World Conference on International Telecommunications (CWG-WCIT-12), pursuant to Council Resolution 1312, shall constitute the preparatory process for WCIT-12, taking into consideration the results of the regional preparatory meetings, to consider and study all relevant work and outputs that have been developed in ITU regarding ITRs, and to discuss and examine all proposals for revision of the ITRs, including proposals for addition of new and emerging issues, for updating and suppression of provisions and/or for abrogation as appropriate.

In that connection, it is important to mention that, as a result of the debate and discussion of regional proposals and proposals by administrations for the ITRs, the first draft of the new ITRs was prepared. This draft must be sent to the WCIT, together with a report on the work done and the results achieved by this working group.

In that regard, it is evident that some proposals submitted to this Working Group aim to modify the definition of “telecommunication” and “international telecommunication service” contained in Article 2 of the ITRs.

Background

The definition of “telecommunication,” which appears in the Annex to the Constitution of the International Telecommunication Union and is used therein, and in the ITU Convention and Administrative Regulations, was adopted by the Additional Plenipotentiary Conference (Geneva, 1992), entering into force on July 1, 1994 for the Member States that had deposited before that date their instrument of ratification, acceptance, approval or accession, pursuant to Article 58 of said Constitution.

In addition, it is important to mention that, in accordance with Article 25 of the ITU Constitution, a world conference on international telecommunications may partially, or in exceptional cases, completely revise the International Telecommunication Regulations, as long as the decisions adopted are in conformity with the ITU Constitution and Convention.

We consider that the existing definitions of “telecommunication” and “international telecommunication service” are technologically neutral and that their current drafting should be maintained. These definitions also appear in Constitution No. 1012 and 1011, and any attempt to revise them would be inconsistent with the provisions of the basic instrument of the ITU.

Therefore, we can conclude that a World Conference on International Telecommunications does not have the authority to amend or modify those definitions, the Plenipotentiary

Conference being the only body with the authority to modify the ITU Constitution and Convention.

Proposal

The Member States of CITELE support the decision to keep the current definition of NOC “telecommunication” and NOC “international telecommunication service” contained in Article 2: “Definitions” of the International Telecommunication Regulations (ITRs), in accordance with Article 25 of the ITU Constitution.

IAP 6: PROPOSAL ON INTERNATIONAL MOBILE ROAMING PRICES

Background

The Secretariat of the World Trade Organization (WTO) notes on international mobile roaming that some governments consider it a telecommunication service in which market forces are not functioning properly. Those governments, when examining international mobile roaming rates in the OECD Member countries, indicate that roaming charges are unreasonable and unfairly high in the most cases. Information document 14 (CWG-WCIT12/INF-14), presented to the 6th meeting of the ITU Council Working Group to prepare for the 2012 WCIT (CWG-WCIT12) contains the Recommendations of the OECD countries towards making international mobile roaming services more accessible to the general public, and can be seen as examples of action at different levels of intervention aimed at reducing international mobile roaming rates.

In fact, the costs of international mobile voice and data roaming services are usually prohibitive to end consumers traveling abroad, who, in turn, make use of alternative methods of communication that are more fairly priced (e.g., Wi-fi, VoIP). This situation results in idleness and underutilization of the potential of global mobile technologies and networks and to the use of imperfect substitutes.

There is no reasonable explanation as to why originating and receiving local calls or accessing mobile data should be much more expensive to users in roaming than for local users, even when clearing house costs and taxes have been included. The following are some of the reasons for the discrepancy between local and roaming prices:

- lack of choice for the end consumers;
- the practice of “cream-skimming” to international mobile roaming users;
- the asymmetry of information between operators and end consumers;
- taxation and multi-taxation;
- billing for the “worst-case scenario” and inclusion of risks of default in the end price;
- lack of unified billing methodologies;
- lack or inefficiency of service regulation.

In order to increase the use of international mobile roaming services, account must be taken of all aspects that contribute to its unfair prices. As well as dealing with the above mentioned problems, mobile operators should be encouraged to set prices for international mobile roaming services based on reasonable and fair criteria that effectively benefit end consumers, so that they can make full use of their mobile devices wherever they go, and mobile operators, to fully utilize the capacity of their networks and obtain economies of scale from the significant increase in the number of international roaming users.

Proposal

To include the following provisions in Article 6, "Charging and Accounting", of the International Telecommunication Regulations:

"Member States shall foster the establishment of international roaming mobile services prices based on principles of reasonability, competitiveness and non-discrimination relative to prices applied to local users of the visited country."

IAP 7: PROPOSAL ON TRANSPARENCY IN INTERNATIONAL MOBILE ROAMING

Background

In comparing prices between international mobile roaming voice and data services and local voice and data services, unreasonably higher rates for the former are present. This situation is due to inefficient competition in the roaming market, to the asymmetry of information between operators and consumers and the lack of effective regulation by the national regulatory authorities.

In order to mitigate these problems, national telecommunication regulatory authorities should implement measures to increase competition in the market and to give more power to the consumers. Such measures should result in self-regulating market forces and in prices for roaming services that decrease naturally due to increased competition.

The implementation of measures for increased transparency in **Mobile Services in International Roaming** (IMR) service would serve both to increase competition and empower consumers, with minimal regulatory intervention. Consumers of roaming services would be fully aware of the prices they would be paying, and operators would compete to gain roaming consumers, causing downward pressures on market prices.

Proposal

To include the following provisions in Article 4, “International Telecommunication Services”, of the International Telecommunication Regulations:

“Member States shall implement measures to improve transparency in prices, modalities and conditions of access to **Mobile Services in International Roaming** as well as their effective and immediate communication to the user.”

IAP 8: PROPOSAL ON QUALITY OF INTERNATIONAL MOBILE ROAMING SERVICES

Introduction

There is broad consensus as to what have been and remain the major obstacles to the development of **telecommunication services in international roaming**, which are related to the increased risk of fraud and higher prices as well as the lack of awareness among consumers of the costs of the service and, generally, the low level of transparency from the consumer's point of view, the surcharges applied, and other terms and conditions of service.

This has led to various initiatives³ on the part of regulators, the industry, operators and service providers, and users or consumers, in response to the challenges in this area.

In international roaming, information is crucial to enabling users to make rational and economically sustainable use of telecommunication services outside their own country of residence. It is particularly vital given the very competitive nature of the market, which is divided into different geographical areas with their own tariff systems, services offered, frequency bands and technologies.

Background

In order to guarantee quality and transparency of **telecommunications services in international roaming**, various measures have been implemented in certain regions.

The European Commission has adopted a set of regulations on roaming in the EU⁴ (Eurotariff 2007 and subsequent updates), which stipulate among other things that users should receive an SMS when crossing internal EU borders informing them of the prices they are expected to pay for making and receiving calls, and that they should be able to obtain more detailed information by means of a voice call or SMS.

The Arab Telecommunications and Information Council of Ministers adopted Resolution 187 of 2006, according to which all operators must inform roaming users of applicable tariffs via SMS once they arrive at their destination, and Resolution 219 of 2008, which endorses the

³ [Estudio Regional del Mercado Suramericano del Servicio de Roaming – José María Díaz Batanero – IDB: http://www.slideshare.net/jbossio/estudio-regional-mercado-de-roaming-sudamericano-presentation-636696.](http://www.slideshare.net/jbossio/estudio-regional-mercado-de-roaming-sudamericano-presentation-636696)

⁴ [EU Roaming Rules: http://ec.europa.eu/information_society/activities/roaming/regulation/archives/current_rules/index_en.htm.](http://ec.europa.eu/information_society/activities/roaming/regulation/archives/current_rules/index_en.htm)

recommendations of the Arab Regulators' Network (AREGNET) on measures to increase transparency of roaming charges including the use of a website.⁵

The industry for its part has also made efforts, for example GSMA Europe,⁶ which adopted a code of conduct concerning information on roaming charges which promotes the provision of information via a customer care site and a corporate website. GSMA (Arab region)⁷ uses the same means as well as text messages.

In February this year, the Council of the Organization for Economic Co-operation and Development (OECD)⁸ recommended measures including measures to promote transparency of information on roaming services.

In the light of the above, recognizing the challenges facing all States with regard to international roaming services and the transnational dimension of those services, the need to raise awareness among users and operators of the costs of these services and the availability, advantages and diversity of providers, and in order to guarantee transparent and effective protection for users, it is essential to agree certain minimum measures as regards quality and transparency of information on these services.

Proposal

To that end the Member States of CITELEL propose to the World Conference on International Telecommunications (WCIT-12) the addition of a new Article 4.X to the International Telecommunication Regulations, to read:

“Member States shall implement measures to ensure that telecommunications services in international roaming of satisfactory levels of quality, comparable to that provided to their own local users, are provided to visiting users”.

⁵ Proposals of the AREGNET Working Group on International Roaming:
http://www.tra.org.bh/en/pdf/Presentation_Background_Roaming-MOU.pdf.

⁶ <http://www.eesc.europa.eu/self-and-coregulation/documents/codes/private/039-private-act.pdf>.

⁷ http://www.gsmaw.org/documents/gsm_e_coc_int_roaming.pdf.

⁸ <http://webnet.oecd.org/OECDACTS/Instruments/ShowInstrumentView.aspx?InstrumentID=271&InstrumentPID=276&Lang=en&Book=False>.

IAP 9: PROPOSAL OF PRINCIPLES TO BE OBSERVED IN THE REVISION OF THE INTERNATIONAL TELECOMMUNICATION REGULATIONS

Proposal

The Member States of CITELE present their views and understandings regarding the principles to be observed in revising the International Telecommunication Regulations (ITRs):

1. The ITRs should contain provisions concerning obligations to the signatory Member States. Member States should adopt the necessary measures to implement the ITRs at the national and international levels, whenever the provisions apply, consistent to national legislation;
2. The ITRs should mostly address high-level matters regarding international telecommunications, considering the technical aspects inherent to telecommunications;
3. The ITRs should be viewed as provisions that complement the ITU Constitution (CS) and Convention (CV), so any proposal that is “unconstitutional” or contravenes what is defined in the CS and CV should not be approved;
4. The ITRs should, to the greatest extent possible, avoid duplicating provisions that already exist in the ITU CS and CV;
5. The term “Member” should be systematically replaced by “Member States”;
6. The term “CCITT” should be systematically replaced by “ITU-T”;

IAP 10: PROPOSAL ON REVISIONS TO PREAMBLE OF THE ITRs

Background

The purpose of the following revisions is to align the preamble of the International Telecommunication Regulations (ITRs) with the current terminology used in ITU Constitution (CS) No. 3.

Preamble: While the sovereign right of each ~~country~~state to regulate its telecommunications is fully recognized, the provisions of the present 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.

Proposal

The Member States of CITELE support the proposed revisions to the preamble of the International Telecommunication Regulations (ITRs).
