

Africa Common Proposals		Alternative proposals
Article	Concerns	Alternative Proposals
<p>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 Regulations also set rules applicable to <a href="#">Member States and Operating Agencies</a>*.</p>	<p>Provision would change the entities to which the ITRs are applicable from “administrations” to “member states and operating agencies.”</p> <p>- This change affects the entities that the ITRs govern. Currently, the ITRs govern “administrations,” who by definition are limited to public entities (“governmental department or service”). However, they would now apply to “operating agencies” (defined</p>	<p><b>1</b>            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. They <a href="#">apply to how Member States implement provisions of the Regulations also set rules applicable to administrations</a>*.</p> <p><b>2</b>            These Regulations recognize in Article 9 the right of <a href="#">Members States</a> to allow special arrangements <a href="#">on the condition that these do not cause technical harm</a>.</p> <p><b>NO ADD</b></p> <p><b>2</b>            <a href="#">(Option 1)d) Member States shall take best efforts to prevent installations of all kinds from disrupting the operation of operating agencies within the jurisdiction of other Member States.</a></p>

<p>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 Regulations also set rules applicable to <a href="#">Member States and Operating Agencies</a>*.</p>	<p>as “any individual, company, corporation or governmental agency,” which can be either a private or government entity). This appears to give the ITU jurisdiction overall operating agencies, even private ones, which is a substantial increase in the scope of the jurisdiction granted.</p> <p>Further, in its revisions, the ATU notes that “‘operating agency’ (OA) Includes ‘recognized operating</p>	<p>5 <a href="#">(Option 2) d) NO ADD</a></p> <p>6 <a href="#">(Option 1) e) Member States shall guarantee priority for telecommunication relating to safety of life (distress), including for prevention, relief and mitigation emergency situations.</a></p> <p>6 <a href="#">(Option 2) e) NO ADD</a></p> <p>7 <a href="#">f) NO ADD</a></p> <p><del>06</del> 1.4 References to <del>ITU--TCCITT</del> Recommendations <del>and Instructions</del> in these Regulations are not to be taken as giving to those Recommendations <del>and Instructions</del> the same legal status as the Regulations. <a href="#">Member States should give due consideration to ITU--T Recommendations consistent with the application of the Constitution and the Convention.</a></p> <p><del>117</del> 1.5 Within the framework of the present Regulations, the provision of international telecommunication services in each relation is pursuant</p>
--	---	---

<p>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 Regulations also set rules applicable to <a href="#">Member States and Operating Agencies</a>*.</p>	<p>agency' (ROA) and is used in that sense throughout these Regulations." However, OA and ROA are defined differently in the Annex to the ITU Constitution, a document that takes precedence over the ITRs and that will not be renegotiated at the WCIT. Thus, to the extent that the ATU is suggesting that the use of ROA in the ITRs should be replaced by OA, this is a problem because ROAs require state authorization and Member States are bound to</p>	<p><del>mutual agreement between <a href="#">Member States or their delegates-administrations</a>* .</del>  <u><a href="#">12&amp;(Option 1)</a></u> 1.6 In implementing the principles of these Regulations, <a href="#">Memb States-administrations</a>* should <u>encourage operating agencies to comply with, to the greatest extent practicable, the relevant ITU--<del>TCIT</del> Recommendations, including <del>Instructions forming part of or derived from these Recommendations.</del></u></p> <p><u><a href="#">12 (Option 2)</a></u> 1.6 In implementing the principles of these Regulations, <a href="#">Memb States administrations</a>* should comply with <u>and implement, to the greatest extent practicable, the relevant ITU--<del>TCIT</del> Recommendations, including any Instruction forming part of or derived from these Recommendations.</u></p> <p><u><a href="#">139</a></u> 1.7 a) These Regulations recognize the right of any Member <a href="#">State</a> subject to national law and should it decide to do so, to require that administrati and private operating agencies, which operate in its territory and provide an</p>
--	--	---

<p>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 Regulations also set rules applicable to <a href="#">Member States and Operating Agencies</a>*.</p>	<p>take the necessary steps To impose the observance of the provisions of the ITU Constitution, Convention and the Administrative Regulations on them, while this is not the case for OAs. However, to the extent that the ATU is just clarifying that ROAs are a subset of OAs, so that the use of the term OA in the ITRs means both OAs and ROAs, then their statement is harmless. Proposed addition of “establishing...the security of</p>	<p><u>international telecommunication service to the public, be authorized by that Member State</u></p>
--	---	---

<p>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 security of international telecommunication services.</p> <p>1.6 In implementing the principles of these Regulations, *Member States should take measures to ensure that Operating Agencies comply with, to the greatest extent practicable, the relevant ITU-T Recommendations.</p>	<p>international telecommunication services” as one of the purposes of the ITRs.</p> <p>- This demonstrates a shift in focus of the ITRs from “promoting the development of telecommunication services and their most efficient operation” (quoted from the Preamble) to a substantial role in ensuring network protection/security</p> <p>Proposed revision of wording from stating that “administrations” should comply with the ITU-T Recommendations to stating that “member states” should ensure that operating agencies comply with them</p> <p>- This revision is significant in that it strips administrations of the power to choose which of the non-binding ITU-T Recommendations to comply with, and places that power with the Member States, who can then take action to ensure that operating agencies comply with any, but not necessarily all, of the ITU-T Recommendations they choose.</p> <p>- This language is stronger than the language in Article 1.7(b), which has been proposed for deletion, and which only allows</p>	
		<p>Me 13/11/12 14:23 Deleted: administrations</p>
		<p>Me 13/11/12 14:24 Deleted: CCITT</p> <p>Me 13/11/12 14:26 Deleted: including any Instructions forming part of or derived from these Recommendations</p>

-	Member States to “encourage” the application of relevant Recommendations by such service providers.	
<p>2.1A  <a href="#">[Telecommunication/ICT: Any transmission, emission or reception, including processing, of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic</a></p>	<p>Proposed revision would add the “processing of signs, signals, writing, images and sounds or intelligence...” to the definition of “telecommunication”</p> <p>- Having a parallel definition, along with Article 2.1, is confusing and could lead to member state abuse.</p>	<p><i>Government telecommunication:</i> A telecommunication originating with any: Head State; Head of a government or members of a government; Commanders---in---Chief military forces, land, sea or air; diplomatic or consular agents; the Secretary---Gen of the United Nations; Heads of the principal organs of the United Nations; the International Court of Justice, or replies to a government <a href="#">telecommunications mentioned above</a><del>telegram</del>.</p> <p><del>2247</del>      <b>2.4 Service telecommunication</b></p> <p>A telecommunication that relates to public international telecommunications and that is exchanged among the following:</p>

systems.]

- This proposal would have the effect of expanding the scope of the ITRs to include the Internet, as the inclusion of "processing" can be read to give the ITU jurisdiction over not just the transport of signals, but their manipulation as well.

- The consequences of these changes are substantial, as the entire scope and meaning of every ITR provision that uses them would be altered

- Administrations;
- Recognized ~~private~~ operating agencies;
- And the Chairman of the ~~Administrative~~ Council, the Secretary---Gener: the Deputy Secretary---General, the Directors of the ~~Bureau Internation~~ [Bureau International](#) ~~Consultative Committees~~, the members of the [Radio Regulations International Frequency Registration](#) Board, other representatives or authorized officials of the Union, including those working on official matters outside the seat of the Union.

<p><u>2.6 International route:</u> All technical facilities, and installations and transmission channels used for the <u>transmission of traffic between technical facilities and installations</u> located in different countries</p>	<p>Proposed revision would change “telecommunications traffic” to just “traffic,” as well as reword the article. The proposed revision would read: “International route: All technical facilities, installations and transmission channels used for the transmission of traffic between technical facilities and installations located in different countries.”</p>	<p><b>Privilege telecommunication</b> <u>2449</u> 2.5.1 A telecommunication that may be exchanged during: – Sessions of the ITU <del>Administrative</del> Council, – Conferences and meetings of the ITU  Between, on the one hand, representatives of Members of the <del>Administrative</del> Council members of delegations, senior officials of the <del>General Secretariat and of the three Bureaux and members of the Radio Regulations Board permanent organs of the Union</del> and their authorized colleagues attending conferences and meetings of the ITU or the other, their administrations or recognized private operating agency or the ITU relating either to matters under discussion by the <del>Administrative</del> Council, confere and meetings of the ITU or to public international telecommunications. A private telecommunication that may be exchanged during sessions of th <del>Administrative</del> Council and conferences and meetings of the ITU by rep</p>
<p><u>2.8 Termination rate:</u> Rate corresponding to the remuneration of the use of an Operating Agency’s network to complete international traffic on its network, or third party’s network.</p>	<p>- This change could be read as expanding the ITU’s jurisdiction to include all traffic, Internet or otherwise, as the modifier “telecommunications” is removed. Similar to the proposed change to Article 2.1, discussed above, broad definitional modifications/expansions such as this would have wide reaching effects, i.e.: every provision in which the term is used. Proposed revision would alter the name of the defined term from “accounting rate” to “termination rate,” and change the meaning from “the rate agreed between administrations in a given relation that is used for the establishment of international accounts” to the “rate corresponding to the remuneration of the use of an operating agency’s network to complete International traffic on its network, or a third party’s network.”</p>	<p>Members of the <del>Administrative</del> Council, members of delegations, senior <del>General Secretariat and of the three Bureaux and members of the Ra Board permanent organs of the Union</del> attending ITU conferences and me staff of the Secretariat of the Union seconded to ITU conferences an enable them to communicate with their country of residence. <u>2624</u> 2.6 <i>International route: A route for the transmission of traffic between Technical facilities and installations located in different countries and used for telecommunication traffic between two international</i> <i>Telecommunication terminal exchanges or offices.</i></p>
<p><u>2.10B Fraud: use of public international telecommunication services or facilities with the intention of avoiding payment, without correct payment at all, or by making someone else pay, by misusing numbering (addressing) resources, by intentional misrepresentation of identity or other deceptive, wrongful or criminal practices, in order to obtain personal or financial gain that can</u></p>	<p>Proposed revision would alter the name of the defined term from “accounting rate” to “termination rate,” and change the meaning from “the rate agreed between administrations in a given relation that is used for the establishment of international accounts” to the “rate corresponding to the remuneration of the use of an operating agency’s network to complete International traffic on its network, or a third party’s network.”</p>	<p><u>2722</u> <del>2.7 Relation: Exchange of traffic between two terminal e always referring to a specific service if there is between their administr</del> <u>2823</u> <del>a) — a means for the exchange of traffic in that specific se</del> <del>—Over direct circuits (direct relation), or</del> <del>—Via a point of transit in a third country (indirect relation), and</del> <u>2924</u> <del>b) — normally, the settlement of accounts.</del> <del>.8 — Accounting rate: The rate agreed between administrations* in a given relation that is used for the establishment of international accounts.</del> <u>3126</u> 2.9 <i>Collection charge:</i> The charge established and collected by an administration* From its customers for the use of an international telecommunication service. <u>3227</u> <del>TCCHT</del> 2.10 <i>Instructions:</i> A collection of provisions drawn from one or more ITU Recommendations dealing with practical operational procedures for the handling of telecommunication traffic (e.g., acceptance, transmission,</p>

Me 13/11/12 15:30  
**Deleted:** and used for telecommunication traffic between two international telecommunication terminal exchanges or offices.  
Me 13/11/12 15:29  
**Deleted:** Accounting

Me 13/11/12 15:29  
**Deleted:** The rate agreed between administrations\* in a given relation that is used for the establishment of international accounts.



<p>3.3 <u>Operating Agencies</u> shall determine by mutual agreement which international routes are to be used. <u>Member states/Operating Agencies shall have the right to know which international routes are used for carrying the traffic.</u></p>	<p>Proposed revision would give member states the “right to know which international routes are used for carrying the traffic.”</p> <ul style="list-style-type: none"> <li>- This proposal is problematic for two reasons.</li> <li>- First, this provision is incompatible with the current architectural structure of the internet. In order for a member state to know how its traffic is routed, the internet service provider must be aware how its traffic moves at any given point. However, different packets of information from a single message do not have to follow the same path, and this characteristic is critical to the speedy transmission of data that has allowed the internet to thrive and upon which its users rely. From a compliance standpoint, this Requirement is unreasonable and would entail substantial and costly changes to the underlying architectural structure of the</li> </ul>	

Me 13/11/12 15:29  
**Deleted:** Administrations\*

Me 13/11/12 15:28  
**Deleted:** 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\*.

	<p>internet.</p> <p>- Second, the ability of a state to know how its traffic is routed is ripe for abuse. Underpinning a member state’s “right to know” is their ability to take disciplinary actions against behavior with which they are unhappy. Once a member state knows how traffic is routed, it becomes quite easy to monitor that traffic and take actions against those who may be advocating against the government, or engaging in activity that a government determines is against its interest. Accordingly, this proposal threatens freedom of expression.</p>	
<p>3.4A 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 telecommunications services offered to the public to apply the ITU-T Resolutions and Recommendations</p>	<p>Proposed addition to the ITRs would require Member States to mandate that “Operating Agencies which operate in their territory and provide international telecommunications services offered to the public to apply the ITU-T Resolutions and Recommendations relating to naming, Numbering, addressing and identification.”</p> <p>- This would serve to make the</p>	<p><del>28</del> 3.1 Members shall <u>encourage operating agencies to ensure that administrations*</u> cooperate in the establishment, operation and maintenance of the international network <u>in order</u> to provide, <u>to the greatest extent practicable</u>, a satisfactory quality of service.</p> <p>3.2 <u>Member States Administrations*</u> shall <u>establish policies to encourage the provision of Endeavour to provide</u> sufficient telecommunication facilities <u>in a competitive environment in order</u> to meet the requirements of and demand for international telecommunication services.</p> <p>3.3 <u>Member States shall permit operating agencies to determine through commercial agreements the most efficient and effective provision of international telecommunication services. Administrations* shall determine by mu</u></p>

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.

ITU-T Resolutions and Recommendations, which are non-binding, binding on operating agencies. This is a problem, as the Recommendations were adopted with the intent that is non-binding.

~~agreement which international routes are to be used. Pending agreement and provided that there is no direct route existing between the terminal administrative concerned, the origin administration\* has the choice to determine the routing of outgoing telecommunication traffic, taking into account the interests of the relevant transit and destination administrations\* .~~

Subject to national law, any user, by having access to the international network established by an operating agency administration\*, has the right to send traffic. Member States shall encourage that a satisfactory quality of service should be maintained to the greatest extent practicable, corresponding to relevant ITU-T Recommendations.

3.5 Member States shall encourage the appropriate use of naming, numbering, addressing and identification resources in order that they are used only for the purposes for which they are assigned. Member States shall encourage the adoption of the relevant ITU-T recommendations.

3.6 a) Member States shall encourage the implementation, to the greatest extent practicable, of CLI features in the international public switched telephony network using naming, numbering and other resources within the remit and responsibility of ITU. Member States shall encourage the adoption of the relevant ITU-T Recommendations.

b) Member States shall ensure that the requirements associated with information protection and information privacy are fully met, when implementing CLI features.

3.7 Member States shall encourage the adoption of policies to increase international connectivity, including that of the Internet.

714.4 Member States, taking into account specific national and regional conditions, shall endeavor to implement measures to ensure that consumers are provided with clear, transparent and timely information on retail charges for international telecommunication services, including mobile roaming services.

<p>5A.3 Member States shall ensure that operating agencies take the appropriate measures to combat network fraud.</p> <p>5B.1 Member States shall ensure that operating agencies take appropriate measures to prevent the propagation of spam including: 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.</p>	<p>This addition is extremely vague with regards to what “appropriate measures” entail, for example, by failing to require a proportional response. Accordingly, the provision is ripe for abuse by member states who would be given nearly unbridled discretion as to the remedial actions they can take.</p> <p>- Further, the problems outlined for the proposed modifications to Article 2.16(expanding the definition of fraud) would be applicable here as well</p> <p>- Proposed revision is vague, as it is unclear what measures to prevent the propagation of spam are appropriate and fails to include a proportionality requirement. The list of three measures that member states can take are not all-inclusive, so the door is left open for member states to take other actions, such as blocking IP addresses, in the name of stopping spam.</p> <p>- Further, the meaning of “spam” is currently undefined in the ITRs, and its meaning is critical to determining the scope of this provision. A broad, vague definition of spam, including for example the proposed definition</p>	<p>5.1 <u>Member States shall adopt policies that to the greatest extent practicable, ensure that safety of life telecommunications, such as distress telecommunication including for relief and mitigation in emergency situations, are <del>shall be</del> entitled to transmission as of right and shall</u>, where technically practicable, have absolute priority over all other telecommunications, in accordance with the relevant Article of the <u>Constitution and Convention</u> and taking due account of relevant <u>ITU---TECF</u> Recommendations.</p> <p><u>79 Member States should encourage Operating Agencies to take appropriate measures to further the safety, security, continuity, sustainability and robustness of their networks used for international telecommunication services.</u></p> <p><u>b) Member States are encouraged to collaborate to promote international cooperation to avoid technical harm to networks.</u></p> <p><u>805.8 Member States are encouraged:</u></p> <p><u>a) To adopt national legislation to act against spam;</u></p> <p><u>b) To cooperate to take action to counter spam; and</u></p> <p><u>c) To exchange information on national findings/actions to counter spam.</u></p>
--	--	---

	<p>submitted by the Arab States (containing language such as “no meaningful message” without defining what this means) could be ripe for content discrimination by member states.</p> <p>- It is unclear from the proposal whether or not the ATU supports this proposed definition</p>	
6.5B Member States shall	It is not clear what cost-oriented	Article 6: Charging and Accounting <a href="#">Policies for International Telecommunicat</a>

<p>ensure that rates (in particular transit rates, termination rates, and roaming rates) are cost-oriented.</p>	<p>means. Provision seems to promote member state intervention into an area that has traditionally been controlled by market forces.</p>	<p style="text-align: center;"><u>Services</u></p> <p>6.1.1 Each <del>administration*</del> <u>recognized operating agency</u> shall <del>freely, subject to applicable national law;</del> establish the charges to be collected from its customers. <del>level of the charges is a national matter; however, in establishing these charges, Member States shall ensure that recognized operating agencies take into consideration competitive and non-discriminatory principles administrations* should try to avoid too great a dissymmetry between the charges applicable in each direction of the same relation</del></p> <p><del>6.1.2 The charge levied by an administration* on customers for a particular communication should in principle be the same in a given relation, regardless of the route chosen by that administration*.</del></p> <p>6.1.3 <del>Where, in</del> accordance with their national law, <u>Member States are free to levy a tax</u> on collection charges for international telecommunication services; <del>however, in order to avoid double taxation, Member States are encouraged to collect</del></p> <p><del>These taxes, this tax shall normally be collected</del> only in respect of international services billed to customers in that country, unless other arrangements are made to meet special circumstances.</p> <p><u>Transit and termination rates-Accounting rates</u></p> <p><del>.2.1 For Each applicable service in a given relation, administrations recognized operating agencies shall freely by mutual agreement establish and revise transit and termination Accounting rates to be applied between them, in accordance with the provisions of Appendix 1 and taking into account relevant ITU-TTC/ITU-R Recommendations and relevant cost trends. Member States shall ensure that in establishing these rates, recognized operating agencies take into account competitive and non-discriminatory principles.</del></p>
---	--	--

		<p><u>6.3.1 In the absence of special arrangements concluded between recognized operating agencies-administrations*, the monetary unit to be used in the composition of <del>tra</del> And termination accounting-rates for international telecommunication services and in the establishment of international accounts shall be:</u></p> <p><u>- Either the monetary unit of the International Monetary Fund (IMF), currently the Special Drawing Right (SDR), as defined by that organization;</u> <u>- Or the gold franc, equivalent to 1/3.061 SDR.</u> <u>-Or the monetary unit mutually agreed by the recognized operating agencies.</u></p> <p><del>– 9250 6.3.2— In accordance with relevant provisions of the International Telecommunication Convention, this provision shall not affect the possibility of operating administrations* of establishing bilateral arrangements for mutually acceptable coefficients between the monetary unit of the IMP and the gold franc.</del></p> <p><del>9354 6.4— Establishment of accounts and settlement of balances of acc</del></p> <hr/> <p><del>9452 6.4.1 Unless otherwise agreed, administrations* shall follow the relevant provisions as set out in Appendices 1 and 2.</del></p> <p><u>6.5.1 Member States shall encourage operating agencies to follow the relevant provisions as set out in Appendix 3.</u></p> <p>97 <u>6.6 NO ADD</u></p> <p>986.7 <u>NO ADD</u></p> <p>996.8 <u>NO ADD</u></p> <p>1006.9 <u>NO ADD</u></p> <p>1016.10 <u>NO ADD</u></p> <p>1026.11 <u>NO ADD</u></p>
--	--	--

		<p>1036.12 <a href="#">NO ADD</a></p> <p><a href="#">104 6.12A</a> <a href="#">Member States shall endeavor to develop policies for reducing charges on international roaming services and shall encourage competition in the provision of these services.</a></p>
<p>9.1. B) Any such special arrangements should avoid technical or <a href="#">financial</a> harm to the operation of the telecommunications facilities of third parties countries</p>	<p>This modification would extend the types of harm to be prevented to include “financial harm” and change the entity receiving the protection from the “telecommunication facilities of third countries” to the “telecommunications facilities of third parties.”</p> <p>- By requiring consideration of financial harm to third parties, this provision could interfere with the market forces. Arrangements between two member states should be governed by market demands, and having to consider harm to the finances of other member states, for example, could harm efficiency.</p>	
<p>Article 7 Article 7</p>		<p>7.1 If a Member <a href="#">State</a> exercises its right in accordance with the <a href="#">Constitution and</a> Convention to suspend international telecommunication services partially or totally, that Member <a href="#">State</a> shall immediately notify the Secretary---General of the suspension and of the subsequent return to normal conditions by the most appropriate means of communication.</p> <p><a href="#">11456</a> 7.2 The Secretary---General shall immediately bring such</p>



		information to the attention of all other Members <del>States</del> , using the most appropriate means of communication.
--	--	--