



EUROPEAN COMMISSION

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Proposal for a

**COUNCIL DECISION**

**Establishing the EU Position for the review of  
the International Telecommunications Regulations to be taken at the  
World Conference on International Telecommunications or its preparatory instances**

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE PROPOSAL**

The International Telecommunications Union (ITU) is a specialised agency of the United Nations, the aim of which is to promote “international cooperation among peoples and economic and social development by means of efficient telecommunication services”. The 27 Member States of the European Union (EU) are voting members of the ITU and the European Commission is a non-voting sector member.

At the 2010 ITU Plenipotentiary, it was decided to hold a World Conference on International Telecommunications (WCIT) in Dubai from 3<sup>rd</sup> to 14<sup>th</sup> December 2012, with the aim to revise the International Telecommunications Regulations (ITRs). The ITRs define the general principles for the provision and operation of international telecommunications and are a global treaty signed by 178 countries.

While the ITRs address issues related to international (as opposed to domestic) telecommunications services, there are aspects of the ITRs that related directly to issues covered by the EU *acquis*, in particular the Framework for electronic communications. The EU therefore needs to ensure that any proposed changes to the ITRs that are agreed in Dubai do not conflict with applicable legislation in the EU or restrict the EU as to the future development of the EU *acquis*.

The Commission therefore recommends that the Council adopts the attached decision in order to allow the EU to negotiate the revision of the ITRs in Dubai. The legal basis for the proposed Council Decision is:

Article 218(9) TFEU in respect of the proposed agreement with third countries, and

Article 114 TFEU in respect of the related legal measures already adopted for electronic communications which may be affected by such an agreement with third countries.

### **2. NATURE AND SCOPE OF THE DISCUSSIONS**

As noted above, the ITRs provide for general principles for the provision and operation of international telecommunications. These include specific provisions related to:

Art. 3 International Network

Art. 4 International Telecommunication Services

Art. 5 Safety of Life and Priority of Telecommunications

Art. 6 Charging and Accounting

Art. 7 Suspension of Services

Art. 8 Dissemination of Information

Art. 9 Special Arrangements

Art. 10 Final Provisions

App. 1 General Provisions Concerning Accounting

App. 2 Additional Provisions Relating to Maritime Telecommunications

App.3 Service and Privilege Telecommunications

During the negotiations, amendments may be proposed that extend the scope of the current ITRs, either from a technological, legal or market perspective.

The ITU has created a Council Working Group to review the ITRs and parallel regional consultations are on-going. For the EU the relevant regional forum is the European Conference of Postal and Telecommunications Administrations (CEPT), which comprises 48 countries including all EU Member States. The European Commission participates in an advisory capacity in CEPT, with the right to speak but not to vote.

The final meeting of the Council Working Group prior to Dubai took place in Geneva from 20-22 June 2012. CEPT will continue to engage in preparatory meetings in September and November 2012.

### **3. PREPARATIONS OF THE EU POSITION**

EU Member States have been active participants in both the ITU Council Working Group and CEPT discussions on the ITRs. Several of the draft “European Common Positions” being considered for submission by CEPT to the WCIT for example, have been drafted by EU Member States. The European Commission has also been active in both fora, notwithstanding the limitations on its participation resulting from its current status.

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## **COUNCIL DECISION**

### **Establishing the EU Position for the review of the International Telecommunications Regulations to be taken at the World Conference on International Telecommunications or its preparatory instances**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 114 and 218(9) thereof,

Whereas:

- (1) The International Telecommunication Regulations (ITRs) were adopted by the World Administrative Telegraphy and Telephone Conference in Melbourne in 1988 and have not been revised since;
- (2) The 27 Member States of the European Union are signatories of these ITRs;
- (3) The International Telecommunication Union (ITU) has called for a meeting in Dubai from 3 until 14 December 2012, named the World Conference on International Telecommunications (WCIT), to agree to a new text for these ITRs;
- (4) The European Union has adopted legislation that establishes rules in the area of telecommunications, in particular:
  - (a) Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services;
  - (b) Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws;

(c) Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services;

- (5) Several of the proposals tabled so far for changes to the ITRs relate to aspects of international telecommunications that are clearly within the scope of the EU acquis and Union policies, including the relationship between regulatory authorities and independent commercial operators, roaming, and the protection of personal data. As the ITRs are binding on Parties (unless a Party formally communicates its objection to an amendment) this requires that the European Union has to establish a position on those aspects of the proposed modifications to the ITRs that will have legal effect;
- (6) The position of the European Union within the WCIT needs to ensure that any changes to the ITRs are compatible with the acquis ;
- (7) The European Commission will inform the ITU about the respective competencies of the European Union and its Member States on such matters;
- (8) Meetings have taken place in the context of the European Conference of Postal and Telecommunications (CEPT) to prepare European Common Positions on the ITR review.

HAS ADOPTED THIS DECISION:

#### *Article 1*

The position of the European Union at the World Conference on International Telecommunications (WCIT) from the 3rd to the 14th December 2012, in relation to matters falling within its competence, shall be to ensure that any changes to the International Telecommunication Regulations will be compatible with the EU acquis and further the Union's objectives.

The European Commission shall present the European Union position as set out in annex 1 on such matters.

#### *Article 2*

On other issues which are to be discussed in the WCIT, Member States will aim to have common positions.

Done at Brussels,

*For the Council  
The President*

## Annex

(1) The overarching objective of the European Union in relation to the WCIT is to ensure that any amendment to the International Telecommunications Regulations (ITRs) shall contribute to the development of the information society for the benefit of all citizens and telecommunications users world-wide, and users in the European Union in particular and comply with the Union's acquis and policy.

(2) The European Union shall take the following position on proposals for decisions by the WCIT at its meeting in Dubai between 3<sup>rd</sup> and 14<sup>th</sup> December 2012 and any related preparatory meetings:

(a) Do not support any proposals that conflict with the EU acquis, or introduce obligations on operators which go beyond those already provided for under the EU acquis;

(b) Support proposals that respect the sovereignty of ITU member states and in particular recognise those areas that are a national matter such as cybercrime, content, national security and defence.

(c) Support proposals that seek to ensure that the revised ITRs remain high level, strategic and technology neutral and oppose proposals to make ITU recommendations binding on ITU member states and operating agencies;;

(d) Support any proposals to maintain the current scope of the ITRs and the current mandate of the ITU, oppose any proposals to extend the scope to areas such as the routing of Internet-based traffic, content-related issues;

(e) Support proposals to respect human rights in relation to international telecommunications, support proposals to respect privacy and personal data protection in relation to personal data and communications (subject to 2(a) above)

(f) Support measures to promote greater international cooperation in relation to the security of networks used for international telecommunications traffic;

(g) Support pro-competitive measures intended to help achieve lower prices, and greater transparency on prices, for international telecommunications traffic, based on commercial negotiations in a free and fair marketplace;

(h) Do not support proposals to establish, within the ITU, mechanisms to settle disputes between operators as such mechanisms are not necessary;;

(i) Support proposals that ensure that maritime communications can be charged in an economically efficient way.

In order to make (2) (a) above explicit, EU agreement to any final outcome should be explicitly conditional on the submission of a formal statement by the EU to other participants regarding the applicability of EU regulatory provisions, as follows:

*“In signing the Final Acts of the World Conference on International Telecommunications (Dubai, 2012), the Delegations of the Member States of the European Union declare that these States will apply the International Telecommunication Regulations in accordance with their obligations under the Treaty establishing the European Union.”.*