

CONTRIBUTION FROM THE DIRECTOR GENERAL ON TORs 2, 4 6

OVERVIEW OF ISSUES FOR CONSIDERATION AT THE FOURTH MEETING OF THE AP-41 WORKING GROUP (JUNE 24, 2025)

The fourth meeting of AP-41 WG will address the second grouping of the Terms of Reference (TOR) established at AP-41, ToRs 2, 4 and 6, which are primarily concerned with issues arising with respect to proper protection of the Common Heritage as defined in the ITSO Agreement going forward, as governed by Article XII(c) of the ITSO Agreement, especially with respect to the interface that must occur in this regard between ITSO and the Notifying Administrations.

TORs 2, 4, 6:

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TOR 2: TAKING INTO CONSIDERATION RECOMMENDATIONS OF WG1 AND WG2 APPROVED BY THE AP-41, CONSIDER AND MAKE RECOMMENDATIONS TO ENHANCE THE COLLABORATION BETWEEN ITSO AND THE NOTIFYING ADMINISTRATIONS THAT SUPPORTS THE IMPLEMENTATION OF ARTICLE XII (C) OF THE ITSO AGREEMENT

1. Scope of TOR 2

Provide recommendations to enhance the collaboration between ITSO and the Notifying Administrations that supports the implementation of Article XII(c) of the ITSO Agreement.

2. Background relevant for TOR2

Article XII(c) of the ITSO Agreement provides as follows:

(c) Any Party selected to act as the Company's Notifying Administration shall, under applicable domestic procedure:

- (i) Authorize the use of such frequency assignment by the Company so that the Core Principles may be fulfilled; and
- (ii) In the event that the Company, or any future entity using the Common Heritage frequency assignments, waives such frequency assignment(s), uses such assignment(s) in ways other than those set forth in this Agreement, or declares bankruptcy, the Notifying Administrations shall authorize the use of such frequency assignment(s) only by entities that have signed a public services agreement, which will enable ITSO to ensure that the selected entities fulfill the Core principles.

While other aspects or measures needed to safeguard the Common Heritage are addressed in some other ToRs, for purposes of ToR-2, the primary focus is on means for enhancing the collaboration between ITSO and the Notifying Administrations.

Significant progress has been made in this regard, although further attention is necessary to ensure that lines of communication are established and remain open and the information that is required by ITSO is provided. AP-40 WG-2 had recommended that ITSO and Notifying Administrations implement a closer alignment for accessing the information on the usage of the Common Heritage. The current management of the Common Heritage is conducted by Notifying Administrations acting on the basis of the ITU procedures and their respective domestic procedures. Indeed, closer coordination between ITSO and Notifying Administrations would be helpful in order to anticipate potential changes in the regulatory procedures governing space services, which the ITU (via WRC modifications of the Radio Regulations) is continuously introducing at each WRC. These modifications are discussed in the context of Agenda Item 7 of each WRC. ITSO and the Notifying Administrations may also consider sharing information and positions regarding efforts on matters related to the Common Heritage frequency assignments.

In addition to the requirements of Article XII(c), there are other requirements imposed on the Notifying Administrations in Article XII(e) of the ITSO Agreement, and these may warrant further consideration as well. Specifically, Article XII(e) requires each Party selected to act as a Notifying Administration to: *“(i) report at least on an annual basis to the Director General on the treatment afforded by such Notifying Administration to the Company, with particular regard to such Party's adherence to its obligations under Article XI(c); (ii) seek the views of the Director General, on behalf of ITSO, regarding actions required to implement the Company's fulfillment of the Core Principles; (iii) work with the Director General, on behalf of ITSO, on potential activities of the Notifying Administration(s) to expand access to lifeline countries; (iv) notify and consult with the Director General on ITU satellite system co-ordinations that are undertaken on behalf of the Company to assure that global connectivity and service to lifeline users are maintained; and (v) consult with the ITU regarding the satellite communications needs of lifeline users.”*

3. Main issues to be addressed under TOR 2

The main points which ToR 2 should address (noting that there are some synergies with other TORs) are:

- A. Further enhancing the collaboration between ITSO and the Notifying Administrations.
- B. Ensuring that the information that is required by ITSO is provided.
- C. Meeting the obligations under Article XII(e) which addresses the coordination between ITSO and NA under paragraphs (ii), (iii) and (v), below:
 - Art XII (e) (ii) seek the views of the Director General, on behalf of ITSO, regarding actions required to implement the Company's fulfillment of the Core Principles.
 - Art XII (e) (iii) work with the Director General, on behalf of ITSO, on potential activities of the Notifying Administration(s) to expand access to lifeline countries;
 - Art XII (e) (v) consult with the ITU regarding the satellite communications needs of lifeline users.

D. Meeting the obligations under Article XII(e) which addresses the coordination between ITSO and NA, under paragraph (iv)

- Art XII (e) (iv) notify and consult with the Director General on ITU satellite system co-ordinations that are undertaken on behalf of the Company to assure that global connectivity and service to lifeline users are maintained.

4. Potential Recommendations under TOR 2

1. To further enhance the collaboration between ITSO and the Notifying Administrations, coordination should be established via several channels, including:

- Periodic reporting, based on two semi-annual reports per year (September of the first half of the year and March following year for the second half of the previous year).
- Following consultation with the Notifying Administrations, establishment of guidelines for NAs to respond to ITSO requests for specific information.
- Consistent with the guidelines established between ITSO and the Notifying Administrations, timely notification to ITSO on any plans known to NAs regarding potential developments affecting Common Heritage: plans for suspensions of certain frequency assignments, plans for bringing back into use certain suspended assignments, etc.
- Consistent with the guidelines established between ITSO and the Notifying Administrations, timely notification to ITSO on any plans known to NAs regarding notifications to ITU or from the ITU.

2. To ensure that the information that is required by ITSO is provided it is recommended to establish and formalize closer and periodical coordination between ITSO and Notifying Administrations. These contacts would allow regular exchange of information and all topics subject to reporting from NAs to ITSO and will also allow anticipating potential changes in the regulatory procedures governing space services, which the ITU (via WRC modifications of the Radio Regulations) is continuously introducing at each WRC. This could include:

- Scheduling regular meetings between ITSO and NAs to address all and any elements regarding the reporting requirements.
- Sharing information with ITSO on NAs national plans and/or specific criteria regarding ITU positions which have the potential to impact on the CH.
- To the extent permitted under the domestic rules of the Notifying Administrations, inviting ITSO, in its capacity as an international organization, to attend the national NAs preparatory meetings for ITU, CITEL, CEPT regarding agenda items of interest for ITSO CH.
- NAs to take into consideration ITSO views on the potential impact of ITU decisions on the CH.

3. To meet the obligations under Article XII(e) which addresses the coordination between ITU and NA under paragraphs (ii), (iii) and (v) there are two sets of recommendations.

Firstly, as part of the regular periodic meetings of ITSO and NAs, consideration should be given to the views of the Director General, on behalf of ITSO, regarding actions required to implement the obligations derived from Art XII (e) (ii) and work with the Director General on potential activities of the Notifying Administration(s) to expand access to lifeline countries.

Secondly, given that the LCO contract is no longer in force, appropriate measures should be put in place to ensure that the Company continues to meet its obligations to serve its lifeline connectivity customers.

4. To meet the obligations under Article XII(e) (iv), it is recommended that the Notifying Administrations continue to follow the procedure approved at the Thirty-Third Meeting of the Assembly of Parties (AP-33) to supplement the implementation of Article XII (e)(iv) of the ITSO Agreement:

“a. The Notifying Administrations plan to continue to have Intelsat engage in frequency coordination discussions with other satellite operators on the same basis as other satellite system operators of the Notifying Administration, based on applicable domestic procedures of the Notifying Administration.

b. Before completion of a frequency coordination process, when Intelsat requests the Notifying Administration to provide notification to the ITU regarding the frequency assignments associated with those orbital locations referenced within the defined term “Common Heritage” in the ITSO Agreement and referred to by Article XII (e)(iv) (“Common Heritage Frequency Assignments”), the Notifying Administration would evaluate, on the basis of the notification information available to it, whether such notification would likely adversely affect global connectivity or service to lifeline users.

c. Prior to its transmission to the ITU of any notification concerning the Common Heritage Frequency Assignments covered by paragraphs a and b above, the Notifying Administration would provide to the ITSO Executive Organ the information that would be provided to the ITU, pursuant to the ITU Radio Regulations, for such Common Heritage Frequency Assignments. The Notifying Administration shall also notify ITSO of the circumstances leading to its evaluation, whichever is the case: (1) that such notification would likely adversely affect global connectivity or service to lifeline users; (2) that such notification would likely not adversely affect global connectivity or service to lifeline users; or (3) that the notification information available to the Notifying Administration does not allow it to conclude on whether or not the notification would adversely affect global connectivity or service to lifeline users.

d. ITSO would have thirty (30) days from the receipt of the information provided pursuant to paragraph c above, to provide a response in writing to the Notifying Administration addressing concerns about potential adverse effects on global connectivity or service to lifeline users.

e. In the event that ITSO indicates that the information provided does not raise any question in regard to assuring the maintenance of global connectivity and service to lifeline users or

fails to provide a written response within the specified timeframe, the Notifying Administration may complete the coordination process and provide the appropriate notification to the ITU.

f. In the event that ITSO raises specific concerns regarding the information provided with regard to assuring the maintenance of global connectivity and service to lifeline users, no later than five (5) days after providing such written response, ITSO also may request a meeting to consult on the matter with the Notifying Administration, such meeting to be held within ten (10) days of the ITSO request. Either ITSO or the Notifying Administration may request that Intelsat participate in the consultative meeting. The meeting would be for the sole purpose of discussing and clarifying issues previously raised.

g. The Notifying Administration would consider all of the pertinent facts and submissions, including any views expressed by ITSO either in writing or during any such meeting referenced in paragraph f above, and, in view thereof, then determine the manner in which it will respond to Intelsat's request for notification of the frequency assignments to the ITU, including if necessary, addressing the matter with other ITU administrations included in the coordination. The Notifying Administration may provide the appropriate notification to the ITU when it has reviewed the matters raised by ITSO and has determined that the matter can go forward to the ITU.

TOR 4: ASSESS THE PROCESSES AND MECHANISMS FOR THE ASSIGNMENT AND MANAGEMENT OF THE COMMON HERITAGE, ENSURE ITS PROTECTION AND MAKE APPROPRIATE RECOMMENDATIONS FOR CLOSER ALIGNMENT BETWEEN THE WORK OF ITSO AND THE NOTIFYING ADMINISTRATIONS

1. Scope of TOR 4

Provide recommendations to assess the processes and mechanisms for the assignment and management of the Common Heritage, ensure its protection and make appropriate recommendations for closer alignment between the work of ITSO and the Notifying Administrations

2. Background relevant for TOR 4

The annual Common Heritage report prepared by the ITSO Secretariat includes all relevant details concerning the notifications made by the Notifying Administrations to the ITU BR. The current annual report includes information on the evolution of the Common Heritage since 2001. The Common Heritage has evolved since 2001, notably the frequency assignments and orbital positions. This data is obtained by the DG consulting the Notifying Administrations and, when necessary, the ITU BR. The ITSO Secretariat monitors the notifications made to the ITU BR and, in case any modifications have been identified, such modifications are checked with the Notifying

Administrations and with the ITU BR to ensure that nothing has been overlooked. Before 2015, the comparison was mostly made based on orbital locations registered by the Notifying Administrations. Since 2015, an additional high-level analysis has been prepared on the aggregated number of frequency assignments registered by the ITU for each Notifying Administration.

One particular area to address is with regard to the Common Heritage available resources. It would be desirable to update the status of the Common Heritage resources as of today. Note should be taken that when transferring the satellites at the Common Heritage locations to the Company, many of the orbit-spectrum resources were in the advanced publication or coordination procedures of the ITU, some of them being further notified as the Common Heritage while others did not complete such process. The current status of the Common Heritage resources should be aligned to the ITU registrations which indicate the corresponding notes of the ITU (G32 and USA276) as pertaining to the Common Heritage.

The AP-40 WG-2 identified additional data which could be further added to the annual report to show other complementary aspects such as:

- Level of utilization of each orbital position for each frequency band (effective utilization of the frequency assignments in comparison with the frequency assignments registered at MIFR).
- Level of connectivity of each orbital position with more details to show the level of connectivity between ITSO Regions, to help identifying the compliance against the requirement of global connectivity.
- Level of traffic and evolution of the technology to identify the efficiency related to the utilization and optimal use of the capacity:
 - development of systematic mechanisms for the reporting by National Administrations and Intelsat. These mechanisms would help ensuring that ITSO can monitor the level of compliance against:
 - global coverage;
 - serve its lifeline connectivity customers;
 - provide non-discriminatory access to the Intelsat's system;
 - updates on frequency coordination processes being followed with other administrations/operators.
 - allow for exploitation of these assignments by other operators.

For the above new benchmarking analysis, contribution and cooperation from Intelsat would be essential.

3. Main issues to be addressed under TOR 4

The main points which ToR 4 should address (noting that there are some synergies with other TORs) are:

- A. Monitoring the evolution of registration of frequency assignments at the MIFR of the ITU¹.

1. It is important to note the scarcity of resources of ITSO to carry out such work, for example, difficulties to access to the weekly circulars or budget to allow monitoring of publications

- B. Completing and maintaining the record of the updated frequency assignments that are part of the CH, as registered in the MIFR of the ITU.
- C. Complementing periodic reports from NAs with relevant data to assess compliance against Core Principles, utilizing agreed templates for the semi-annual report.

4. Potential Recommendations under TOR 4

1. To address the monitoring of the evolution of registration of frequency assignments at the MIFR of the ITU, it is recommended that ITSO continues with its obligations to develop periodic reports to the Parties regarding the evolution of the Common Heritage.

2. To complete and maintain the record of the updated frequency assignments being part of the CH, as registered in the MIFR of the ITU there are two sets of recommendations.

Firstly, ITSO and the NAs should maintain a clean recording of the frequency assignments registered at the MIFR under the ITU labels USA276 and G32 which provide information on the association of satellite networks and ITSO. Such records should include the key data associated to each orbital position, like frequency bands, satellite network registered at the ITU, corresponding satellite network name as used by the Company, status of frequency bands (registered, suspended, suppressed), coverage and ITSO regions served.

Secondly, the current annual report elaborated by the DG on evolution of Common Heritage should evolve towards a simplified report highlighting the key elements. The historic evolution of the CH should be left as a document highlighting the evolution, but such new updated semi-annual report should focus on the key elements modifying the Common Heritage and including additional data as far as needed towards helping DG to assess the compliance against the Core Principles.

3. To complement the periodic reports from NAs with additional relevant data to assess compliance against Core Principles there should be an extended annual report.

The AP-40 WG-2 identified additional data which could be further added to the annual report to show other complementary aspects as indicated in the section 2 “Background relevant for TOR 4”.

AP-41 WG is of the view that the content of the periodic report should take into account the level of details as suggested by previous WG 2 of AP-40. Consequently, the Director General should propose a structure of content of the extended semi-annual report to be provided by NAs and when

or impossibility to access to coverage maps included in the information of satellite networks. ITSO should seek for a proper budget to carry out this work and not relying on the friendly cooperation from several Parties who facilitate such work. ITSO should maintain its independent mechanism to review and monitor the information available at the ITU and consult, systematically, with NAs to confirm or request further clarification on any issue emerging from consultation to ITU

necessary, seeking relevant information from the Company. Such information should not include any type of confidential information associated with the commercial activities of the Company, but sufficient aggregated data to assess the compliance against the Core Principles. As an example of safeguarding confidential information, when reporting on level of connectivity or traffic, aggregated data indicating X countries in Region Y ITSO and ITSO Region Z are served at the light of the satellite coverage (footprints) and Q countries in ITSO Region W are effectively using the satellite. This aggregated data can satisfy the need for information from ITSO and the guarantees of no country individualization of such information. In addition to this, the reports could add a confidential exhibit under which more detailed information can be provided to the ITSO Director General to allow him/her to conclude on the compliance of the Core Principles, without further distribution of such confidential information.

TOR 6: IDENTIFY THE CIRCUMSTANCES UNDER WHICH UNUSED COMMON HERITAGE ORBITAL LOCATIONS COULD BE SUPPRESSED AND MAKE RECOMMENDATIONS FOR RE-ASSIGNMENT TO OTHER OPERATORS.

1. Scope of TOR 6

Provide recommendations to ensure that circumstances in which Common Heritage orbital locations and associated frequency assignments are in jeopardy of suppression are fully and timely disclosed to ITSO so as to afford the NA the ability to license or authorize another satellite operator to utilize those resources and ITSO the ability to enter into a PSA with that satellite operator in a manner consistent with Article XII(c)(ii) of the ITSO Agreement.

2. Background relevant for TOR 6

Keeping in mind the overall goal of global connectivity, the periodic reports from Intelsat and the Notifying Administrations should allow assessing the level of compliance of this objective when using the Common Heritage resources. Such reports should provide sufficient information to allow identifying which Common Heritage resources are used for the goal of global connectivity and setting priority orbital positions to preserve compliance of such goal. Having this information well depicted, it would be feasible to assess the further impact when some Common Heritage resources are suspended or ultimately suppressed.

When a given Common Heritage resource (consisting of the combination of frequency assignments and orbital position) is at risk of being suspended or suppressed, should this Common Heritage resource be crucial for the compliance of the goal of global connectivity, a procedure should be implemented by the Notifying Administration in cooperation with ITSO to trigger the possibility for other satellite operators to exploit such Common Heritage towards re-establishment of the goal of global connectivity in the regions facing the risk of non-compliance due to suspension or suppression of Common Heritage resources.

3. Main issues to be addressed under TOR 6

The main points which ToR 6 should address (noting that there are some synergies with other TORs) are:

- A. In the semi-annual reports, a distinction should be made regarding frequency assignments and orbital positions which are essential and in use for ensuring compliance against the Core Principles (i.e. global connectivity) and which other frequency assignments and orbital positions may risk being suspended or even suppressed.

The identification of whether a given frequency assignment is critical could be made before any risk is identified or any announcement from the Company on potential suspension procedure at the ITU or can be made at the time of such risk is announced by the Company.

- B. Establishment of procedures for allowing the operation of critical assignments (those which are required to ensure global connectivity) under suspension and risk of suppression to other satellite operators.

When a suspension is noticed, the Company may inform about plans to recover the situation and bring back into use the corresponding frequency assignments within a given period of time or, alternatively, the Company may inform about no plans to recover the situation and risking to achieve the maximum time limit of three years suspension without having the possibility to bring back into use the suspended assignments.

4. Potential Recommendations under TOR 6

- 1. Regarding the identification of critical frequency assignments, the periodic reports provided by the NAs and, when necessary, supported by the Company, should allow identification of the critical frequency assignments and orbital positions which are necessary to maintain the compliance of the Core Principles (global coverage, global connectivity).

These reports would allow planning an identification of potential duplications of service in certain geographical areas where the impact of any suspension would have an administrative scope or an operation scope, because the suspension may have just an administrative procedure not impacting operationally on the availability of global coverage and global connectivity, or such suspension may lead to lack of service to certain geographical areas.

In addition, when any announcement is made by the Company, and notified by the NA, on a suspension procedure for certain frequency assignments in certain orbital positions, the same announcement from the Company should indicate the impact on connectivity and coverage. This announcement should include, for example, which regions would suffer lack of connectivity and for which frequency assignments, therefore, allowing to quantify the need of urgent actions to repair such risks.

- 2. Regarding the establishment of procedures for allowing the operation of critical assignments under suspension and risk of suppression to other satellite operators, it is recommended that when a suspension of frequency assignments at certain orbital locations is notified by the Company and NA, such notice should allow to immediately identify whether such suspension will affect global connectivity, if the assignment has been identified as essential. This means, the periodic reports

will allow ITSO to keep a list of frequency assignments and orbital positions which are essential to ensure compliance with the Core Principles and associated frequency assignments at certain orbital positions which provide redundancies and therefore, a suspension process would have implied administrative impact but not immediate impacts on compliance with the Core Principles.

If a suspension is noticed when the recommendation regarding identification of essential frequency assignments is not yet fully implemented, the notification of suspension should include sufficient information to qualify the impact of the suspension in terms of affected regions and, consequently, the criticality of such suspension, recommending actions to recover the situation.

3. It is recommended to establish a procedure to allow the NA and ITSO to coordinate in the process of finding alternative satellite operators which may deploy a satellite network to replace the non-operational Company satellite network (or related frequency assignments) and which provoked suspension.

If the notification of suspension was accompanied by a plan to recover the service and bring back into use the suspended assignments, the NA and ITSO should monitor the evolution of such process and get evidence that such bringing into use step will be in fact implemented.

If the notification of suspension has not been accompanied by a plan to restore the service and bring the suspended assignments back into use on a timely basis, presenting the associated risk of later suppression of the frequency assignments at certain orbital positions, the NA should inform ITSO of the situation and the manner in which, under its domestic procedures, another satellite operator (Company 2) will be afforded the opportunity to be licensed or authorized to utilize the assignments in question, This will then allow ITSO the opportunity to enter into a PSA with Company 2 so as to ensure compliance with the Core Principles, the execution of which would then serve as a condition precedent to the actual licensing or authorization of the assigned frequencies and orbital location by the NA to Company 2.