AP-41 WORKING GROUP
3rd Report

Date:	May 27, 2025 – Start time 08:00 AM ET
AP-41 WG Chairman:	Mr. El Hadjar Abdouramane
Participants:	see Annex I

Agenda of the 3rd meeting of AP-41 WG – May 27, 2025

1. Adoption of the Agenda
2. Adoption of the 2nd Meeting Summary
3. Contribution from the Director General on the TORs 1, 3 and 5 and document AP-38-14
4. Presentation of submitted contributions (TBC)
5. AOB
6. Closing remarks

1. Adoption of the Agenda

The Chairman, Mr. El Hadjar Abdouramane (Party of Cameroon), opened the meeting by welcoming the participants (see Annex I for the list of participants). The agenda highlighted above was presented and adopted without modification.

2. Adoption of the 2nd Meeting Summary

The Chairman invited the meeting to share any comments on the draft second meeting report, noting that it had been shared with the members in advance. Without comment or amendment, the second meeting report was adopted.

3. Contribution from the Director General on the TORs 1, 3, and 5 and doc AP-38-14

The Director General (DG) introduced the contribution, which includes an overview of issues for consideration at the meeting. These issues address the first grouping of the terms of reference established at AP-41, which generally focuses on the nature of the relationship between ITSO and Intelsat (or the combined SES/Intelsat) entity. It also addresses the relationship between ITSO and the two Notifying Administrations, as established pursuant to the terms of the Public Services Agreement (PSA) between ITSO and Intelsat and the ITSO Agreement.

TOR 1: Assessment of strengths, weaknesses, and opportunities to ensure a more successful ITSO, including securing minimum funding levels.

The DG summarized the issues under TOR 1 and emphasized that, in preparing the Strategic Plan, the Goals and Objectives documents, and other Assembly of Parties documents, ITSO should consider additional ways to leverage its strengths for the benefit of both the Parties and the operator. He further suggested that ITSO could potentially develop a broader vision statement outlining what the organization should aim to become over the next four years.

The delegate from India requested the Director General to elaborate on any additional weaknesses beyond the funding issue, noting that there still appeared to be gaps requiring attention. She requested further clarification on those areas.

In response, the DG highlighted that the other weaknesses primarily stemmed from the main challenges already identified, essentially becoming subsets of those issues. He explained that, for example, the absence of adequate funding makes certain organizational weaknesses more apparent, particularly in terms of the resources, including human resources, required to run the organization effectively. He noted that while this is indeed a weakness, it may not come to the forefront if the issue of funding has been resolved.

The DG further noted that another key weakness lies in the limited interaction between the Secretariat and the member states. He emphasized that this weakness, too, largely stems from insufficient funding. For instance, the Secretariat's inability to consistently participate in global meetings where alignment between the organization's work and global developments is crucial is primarily due to financial constraints. He reiterated that while the main challenges had already been listed, many of the additional weaknesses are in fact subsets of those core issues.

The Nigerian delegate expressed gratitude to the Director General for presenting the proposal and recommendations, highlighting that they clarified ITSO's weaknesses. He mentioned that the document from the Director General also indicated a gap concerning the mechanism or enforceability of the PSA. He underlined the necessity to explore how ITSO could guarantee that the agreed terms of the PSA are respected and executed in the future, whether dealing with SES, Intelsat, or another operator. He asserted that this is an important issue and suggested focusing on developing suitable modalities to ensure compliance, while also addressing the funding challenges.

The Chairperson emphasized the broader issue regarding the enforcement mechanism for the PSA obligations, particularly focusing on the funding aspect. Furthermore, he highlighted the necessity of addressing another critical point, the restoration of the contingency fund. He also stressed the importance of information provision by Intelsat and its compliance with public service obligations. It was noted that attention must be given to mitigating risks that ITSO may encounter in the event of the potential future bankruptcy of Intelsat. These matters relate more specifically to the PSA issue, particularly whether it qualifies as an executory contract. These were identified as the key elements of concern.

TOR 3: Potential Improvements in the Current Public Services Agreement (PSA) between ITSO and Intelsat; Development of a PSA framework if needed for entities other than the Company (Intelsat/SES)

The DG summarized the issues under TOR 3 and the Legal Advisor presented the background for Document AP-38-14. TOR 3 focuses specifically on the relationship between ITSO and Intelsat as governed by the terms of the PSA, and the extent to which that relationship can be improved or strengthened going forward.

ITSO Deputy Director General informed the participants about the decision of the AP-38 regarding the submission of the proposal related to a new PSA with potential new satellite operators. The highlights included;

i). The Assembly of Parties decided to request the Director General to further develop the template public services agreement, as contained in Attachment No. 1 to AP-38-14, in consultation with all ITSO Parties and the Notifying Administrations.

ii). The Assembly of Parties decided to authorize the Director General to enter into public services agreements, consistent with the PSA template developed in accordance with paragraph 51, when and if needed, in those instances in which Intelsat has waived any of the Common Heritage frequency assignments.

iii). The Assembly of Parties decided to request the Director General to report to the Assembly of Parties at its next ordinary meeting the status of the draft template PSA, any negotiations of or signatures of a PSA, and to present any revised draft template PSA to the Assembly.

iv). The Assembly of Parties decided to authorize the Director General to convene an Extraordinary Assembly of Parties if Intelsat uses Common Heritage frequency assignments in ways other than those outlined in the ITSO Agreement or declares bankruptcy.

The delegate from India, Ms. Revathi, noted that if ITSO must enter into a PSA with a new entity due to unforeseen circumstances, an extraordinary Assembly of Parties (AP) meeting would be required. Organizing such a meeting could be challenging, especially given ITU regulatory constraints on spectrum and satellite rights non-compliance could risk losing those rights. To mitigate this, it may be advisable for the Director General to take proactive measures and provide a status update at the next AP meeting.

ITSO Legal Advisor Maury Mechanick responded to Ms. Revathi's comments by highlighting the complexities of convening an extraordinary Assembly, especially given the strict ITU deadlines related to spectrum and satellite rights. From a practical standpoint, he suggested that extending the Director General's delegated authority would be more effective, provided that all actions are reported back to the Assembly.

The Legal Advisor emphasized that an extraordinary Assembly should not be considered an automatic requirement in such cases. If concerns arise, the existing mechanism allows Assembly members to formally request a special session. As long as the Assembly is comfortable with this approach, it remains the more appropriate and feasible course of action.

The delegate of the member state of India inquired whether ITSO has conducted any preliminary work considering the experiences of IMSO and EUTELSAT IGO.

In response to the inquiry, the DG noted that meetings had been held with the Director General of IMSO and the Executive Secretary of EUTELSAT IGO to learn from their restructuring experiences. While there are some parallels, key differences were also identified. The goal is to consolidate insights from these discussions into proposed approaches tailored to ITSO's specific challenges.

The Deputy Director General also highlighted the nature of agreements between IMSO and EUTELSAT IGO and their respective operators. During discussions with both organizations, it was noted that while their agreements lack a minimum payment obligation, they do include a payment ceiling. Despite this, no issues have arisen, as the operators have consistently met their commitments.

She noted that this contrasts with ITSO's experience, where the lack of a minimum payment provision has been a vulnerability. In contrast, IMSO and EUTELSAT IGO operators have consistently fulfilled their obligations, recognizing their responsibilities from the outset, an approach ITSO intends to reinforce going forward.

Further, for those new to ITSO, the Deputy Director General recalled that during AP-39, initial work began on a revised PSA between ITSO and Intelsat, as documented in AP-39-10. This document, which includes proposed changes developed during ITSO's engagement with the bankruptcy process, may need to be revisited. She brought this to the Parties' attention for future consideration.

ToR 5: Issues Affecting Common Heritage from Bankruptcy, Merger or Change of Control

The DG then summarized the issues under ToR 5. He noted that since the last Assembly of Parties, the reports received from the Notifying Administrations, specifically, for example, from the United States, have shown a significant improvement compared to previous submissions. In many ways, this already reflects the direction we have been advocating for. While some refinements are still necessary, the scope of these adjustments is now considerably smaller than it was in the past.

The delegate from India requested the ITSO Secretariat to share copies of the latest reports coming from the notifying administrations. It was felt that this would help provide a clearer understanding of the type of information currently being made available to ITSO. Based on that, it was suggested that additional relevant information could be proposed to ensure that the common heritage orbital slots are being utilized effectively and that the risk of losing them is minimized.

The delegate from Brazil, Ms. Luiza Giacomin, asked why only the FCC was referenced, suggesting that it would be more appropriate to involve all notifying administrations. She pointed out that the UK is also a notifying administration that should be considered. She added that bankruptcy can affect and potentially lead to the liquidation of the entire patrimony. Therefore, she believes it is important to ensure that Article XII(c)(ii) is also implemented in such cases, particularly if a Public Service Agreement (PSA) is to be assigned under the common heritage framework.

In response to the comment from the delegate from Brazil, the DG highlighted that the FCC was specifically mentioned because it had imposed certain conditions as early as 2008. He noted that the UK did not impose similar conditions at that time, largely due to differences between its satellite licensing regime and that of the United States. Nevertheless, he added that she made a valid point and that we should include the UK as well. On her second issue, he deferred to the Legal Advisor.

The Legal Advisor mentioned that they had practical experience here when Intelsat emerged from bankruptcy. He added that she is absolutely correct that if we have a situation in which Intelsat is liquidated we would need to invoke Article XII and we will have a PSA with other entities.

The DG concluded by saying that the points raised by the delegate from Brazil are very important and should be added to our recommendations.

In conclusion, the meeting agreed to the recommendations TORs 1, 3 and 5 set out in the DG contribution, which were supplemented by comments made during the meeting.

4. Presentation of submitted contributions (TBC)

Dr. Maria Myers-Hamilton (Coordinator of ToR 1,3 & 5) presented the contribution from the working group handling ToRs 1, 3, and 5. She noted that, with the rapid evolution of satellite technology, market dynamics, and regulatory frameworks, ITSO faces both opportunities and threats. She noted that the presentation on ToRs 1,3, and 5 attempts to provide an analysis of these aspects, offering insights into ITSO's current position and prospects. She explained that their contribution had been to compile information intended to support and augment the Director General's input, providing additional points for consideration.

The delegate from the United States, Mr. Douglas May, requested the Coordinator to review the terms of references and the recommendations being proposed, noting that, there appears to be several instances where ITSO is characterized as a service provider suggesting that it competes in the market or needs to make investments in technology and related infrastructure. However, ITSO is an intergovernmental organization whose mandate is to oversee Intelsat's fulfillment of its public service obligations. With that in mind, it would be helpful to understand the rationale behind these recommendations and the thinking that may have led to a portrayal of ITSO as something other than its actual role.

The coordinator stated that the intent behind these recommendations was not to separate ITSO from Intelsat, but rather to bring the organizations together under a unified framework. Through this entity, the goal is to strengthen collaboration and improve the overall relationship between them. The focus was on generating ideas for how to enhance this partnership, not on positioning ITSO as a market competitor or a commercial service provider. It was never the intention for ITSO to lead or participate directly in the market.

The DG expanded on the coordinator's remarks by highlighting a key structural difference. For instance, EUTELSAT IGO holds an observer seat on the Eutelsat company's board, giving it direct insight into strategic decisions and ensuring it remains informed and prepared. In contrast, ITSO lacks such access due to its foundational structure.

The DG further emphasized the importance of addressing this gap, suggesting that a cooperation agreement between ITSO and Intelsat could provide more timely and strategic engagement. Given the rapid pace of technological change and intense competition in the satellite communications sector, ITSO cannot afford to remain a passive recipient of information. Instead, it must find ways to be actively involved in understanding and anticipating operator developments.

In addition, the DG emphasized the importance of engaging in policy and regulatory matters, noting that ITSO has a unique opportunity to both influence and support the development of satellite-related policies among its Member States. Although ITSO has not been able to engage effectively in this area for various reasons, it remains a significant and underutilized opportunity. Many countries actively seek guidance on policy and regulatory frameworks, and ITSO is well-positioned to facilitate these discussions. While outcomes need not be binding, such exchanges can provide valuable insights especially for nations lacking the capacity to develop these frameworks independently.

After considering the contributions received, the meeting agreed on the following course of action:

1. The coordinator on ToRs 1, 3 and 5 should prepare a consolidated document including relevant recommendations, taking into account the contributions submitted to the meeting and the comments made during it. This document should be prepared according to the report template for the AP-41circulated by the secretariat.
2. The Director General should prepare a revised PSA template between ITSO and entities other than Intelsat for consideration by the next AP. The revised PSA shall be shared with the WG by email or with dedicated WG sessions, if needed, for comments and discussion.

5. AOB

The Secretariat informed the participants that the next meeting would be held on June 24**,** during which ToRs 2, 4, and 6 would be addressed. It was noted that a contribution from the Director General would be presented. The Chairperson also welcomed contributions from other Parties, the coordinator, and the Vice Coordinator on the ToRs**.**

6. Closing remarks

The Director General thanked the members of the Working Group for their excellent input and comments and pledged to continue their dedication to ensuring the preparation of adequate documentation for upcoming and ongoing meetings.

The chairperson reiterated the need to have all contributions submitted using the previously circulated Terms of Reference template. This will streamline the work of the management team and Secretariat in consolidating inputs and producing reports that are easier for the Advisory Committee and Assembly of Parties to review.

In his closing remarks, the chairperson extended his warm thanks to all participants for attending the meeting. He expressed special appreciation to the coordinators from ToRs 1, 3, and 5 for their hard work and invaluable contributions. He also thanked the Secretariat and the entire team for their dedication and valuable input throughout the meeting.

Annex I – List of participants:

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