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INTERNATIONAL TELECOMMUNICATION UNION CONSTITUTION AND CONVENTION

OCTOBER 20, 1997.—Ordered to be printed

Mr. HELMS, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany Treaty Doc. 104–34]

The Committee on Foreign Relations to which was referred the Constitution and Convention of the International Telecommunication Union (ITU), with Annexes, signed at Geneva on December 22, 1992, and amendments to the Constitution and Convention, signed at Kyoto on October 14, 1994, together with declarations and reservations by the United States as contained in the Final Acts, having considered the same, reports favorably thereon with two understandings, two declarations, and one proviso, and recommends that the Senate give its advice and consent to the ratification thereof as set forth in this report and the accompanying resolution of ratification.

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I. PURPOSE

The Constitution and Convention of the International Telecommunication Union (ITU) are intended to restructure the United Nations Telecommunication Union to make it more effective in responding to the changes taking place in telecommunications. The

Constitution and Convention replace the ITU Convention signed in Nairobi in 1982. The 1992 Constitution and Convention represent the first basic instruments of the ITU intended to be permanent. It establishes in the ITU three sectors—Radiocommunication Standardization, Telecommunication Standardization, and Telecommunication Development—that replace the previous permanent organs.

II. Background

The International Telecommunication Union (ITU) is the principal international organization in the area of telecommunications, providing a forum for global cooperation and coordination and the promotion of more effective and efficient use of telecommunications generally. The ITU, which has over 180 members, was founded in 1865 and became a specialized agency of the United Nations in 1947. The ITU's primary missions are:

- managing the radio-frequency spectrum and recording frequencies, and preventing and eliminating harmful interference;
- facilitating worldwide standardization of telecommunications; and
- fostering efforts to provide technical assistance to developing countries with the aim of developing domestic telecommunications infrastructures.

Originally, the basic instrument of the ITU was its Convention, a document that was revised and adopted at the conclusion of each ITU Plenipotentiary Conference (normally held every 5 years). In 1992, Members agreed not only to fundamentally restructure the ITU but also to bifurcate its underlying legal document into a Constitution and a Convention and to make these two instruments permanent.

The current effort to restructure the ITU was undertaken in the late 1980's in response to significant changes and developments in the telecommunications area. In 1989 ITU parties appointed a High Level Committee (HLC), of which the United States was a member, to examine ways to modernize the Union. Its report, titled "Tomorrow's ITU: The Challenges of Change," was issued in 1991. Among other things, the HLC cited a number of developments as having a significant impact on the ITU's ability to carry out its mission and serve its Members. As summarized by one commentator, these were:

> (1) the globalization of telecommunication networks and services and the concomitant blurring of the distinction between national and international regulatory regimes; (2) the accelerating pace of technological changes stemming from the convergence of telecommunication and computer technologies and the spawning of new services, products, and user demands therefrom; (3) the increasing importance of the role of telecommunications in the information economy and society; (4) the rising importance of other organizations having authority over telecommunication or telecommunications-related issues; (5) the widening of the development gap between industrialized and developing countries; and (6) the increasingly diverse nature of the participants in Union activities due to the liberal-

ization, privatization and deregulation of telecommunication services, equipment providers and the users for the new services.

The 1992 Geneva Plenipotentiary Conference, which was convened to consider restructuring proposals made by ITU Members and contained in the HLC report, recommended that ITU Members adopt a new permanent two-instrument Convention that would embody the ITU restructuring and allow Plenipotentiary Conferences to amend the instruments if necessary. Amendments to the Constitution must be approved by 2/3 of the voting delegations. The Convention is more amenable to change, requiring only a majority vote for amendments.

The 1992 Constitution and Convention reorganized the ITU by creating three new vertical sectors: the Radiocommunication Sector, the Telecommunication Standardization Sector, and Telecommunication Development Sector. The Radiocommunication Sector continues the work of the CCIR and the IFRB; the Telecommunications Standardization Sector continues the activities of the CCITT and a portion of the CCIR's standardization work; the Telecommunication Development Sector carries forward the work of the former Telecommunication Development Bureau.

The ITU's supreme organ continues to be the Plenipotentiary Conference. Its Administrative Council has been given new policy responsibilities and renamed the Council. The General Secretariat has been carried forward, given added responsibilities and resources, and charged with serving all sectors. Administrative conferences are now functions of each sector and world conferences on international telecommunication are made a part of the ITU's basic structure. The Constitution and Convention require that administrative conferences be held more frequently and facilitate ITU decision-making, which had been governed by consensus voting.

In general, the restructuring appears to have reconfigured what had been considered to be a somewhat unwieldy bureaucracy by consolidating the primary activities of the ITU into three specific bodies, directly managed by their Directors, with a Coordinating Committee (consisting of the Secretary General, his or her deputy and the three sectoral Directors) acting as an advisory "internal management team," and the Secretary-General charged with overall administrative and financial management of the ITU. Among other changes the Constitution and Convention require the use of strategic planning for the organization, place the budget on a biennial cycle, and allow for increased participation of private sector and international organizations in ITU activities.

The Constitution and Convention were adopted at the 1992 Geneva Plenipotentiary Conference; several amendments to the Constitution and the Convention were later approved at a Plenipotentiary Conference at Kyoto in 1994. The Geneva Conference agreed that provisions of the new documents addressing structure and working methods would go into effect provisionally as of March 1, 1993. The Constitution and Convention entered into force July 1, 1994 between ITU Members who had deposited their instruments of ratification or accession before that date. The Kyoto amendments entered into force as a whole on January 1, 1996, be-

tween those parties to the 1992 ITU Constitution and Convention who had deposited the necessary instruments before that date.

Signatory Members that did not deposit an instrument of ratification for the Constitution and Convention within two years of the date these instruments entered into force are not entitled to vote at any ITU conference, Council session, sectoral meeting, or consultation by correspondence until an instrument of ratification is deposited (Constitution, Art. 52). Rights other than voting rights are not affected, however. The United States signed both instruments when they were first open for signature, but the Clinton Administration did not transmit the treaties to the Senate for advise and consent to ratification until September 1996—two months after the United States had lost its vote under ITU rules.

III. SUMMARY

A. CONSTITUTION OF THE INTERNATIONAL TELECOMMUNICATION UNION

The Constitution of the International Telecommunications Union sets out general principles governing the purpose, basic structure and functions of the various organs comprising the ITU. As complemented by the ITU Convention, it is the basic instrument of the Union, with which all activities must be in conformity. The document consists of nine chapters: Basic Provisions (Arts. 1-11); Radiocommunication Sector (Arts. 12-16); Telecommunication Standardization Sector (Arts. 17-20); Telecommunication Development Sector (Arts. 21-24); Other Provisions Concerning the Functioning of the Union (Arts. 25-32); General Provisions Relating to Telecommunications (Arts. 33-43); Special Provisions for Radio (Arts. 44-48); Relations With the United Nations, Other International Organizations and Non-Member States (Arts. 49-51); and Final Provisions (Arts. 52-58).

Structural Changes.

In amending its governing constitution, the 1992 Plenipotentiary Conference of the ITU significantly revised the organizational structure of the body. Most significant, the conference divided the principal working organs of the Union into three distinct sectors: the Radiocommunication Sector; the Telecommunication Standardization Sector and the Telecommunication Development Sector.

Radiocommunication Sector (Articles 12-16) ITU activities related to the use of the radiospectrum are now conducted by the Radiocommunication Sector, whose primary purpose is to "ensure the rational, equitable, efficient and economical use of the radiospectrum by all radiocommunication services." (Article 12) The work of the newly created sector is accomplished primarily through world and regional radiocommunication conferences which convene to consider revisions to the radio regulations and other items related to its agenda.

While the predecessor of the Radiocommunication Sector—the World Administrative Radio Conference (WARC)—convened to conduct business on an ad hoc basis, the world radiocommunication conference is required under the constitution to convene every two years. (Article 13) Working in conjunction with the

radiocommunication conferences are the "Radiocommunication Assemblies." Replacing the function of the International Radio Consultative Committees (CCIR), the assemblies are primarily responsible for the provision of the "technical bases for the work of the [conferences]", are also required to convene every two years "in place and time" with the radiocommunication conferences. (Article 13)

Also within the Radiocommunication Sector, the Radio Regulations Board assumes the responsibilities of the International Frequency Registration Board (IFRB). The constitution requires that members of the Board be "thoroughly qualified in the field of radiocommunication . . .," and that each member be familiar with the "geographic, economic and demographic conditions" of a particular area of the world. (Article 14) While the former IFRB was directly responsible for the recordation and registration of frequency assignments, the new constitution appears to limit the Board's role to the promulgation of rules of procedure, including technical criteria to be used by the newly created Radiocommunication Bureau in making frequency assignment registrations.

Telecommunication Standardization Sector (Articles 17-20) The Telecommunication Standardization Sector carries out the activities of the Union related to telecommunications standardization. Essentially, subsuming the responsibilities of the former International Telegraph and Telephone Consultative Committee, the sector is charged with "studying technical, operating and tariff questions and adopting recommendations on them with a view to standardizing telecommunications on a worldwide basis." (Article 17) Similar to the Radiocommunication Sector, much of the work is accomplished through world telecommunication standardization conferences, which convene every four years. (Article 18) In addition, the Sector consists of telecommunication standardization study groups and the Telecommunication Standardization Bureau, the responsibilities of which are set out in the Convention. (Article 19-20)

Telecommunications Development Sector (Articles 21-24) Under its revised constitution, ITU development activities have been consolidated into the Telecommunications Development Sector. In addition to fulfilling the purposes of the Union with regard to telecommunications development, the Sector is charged with carrying out the Union's dual role as the United Nations' Specialized Agency for telecommunication and the "executing agency" for implementing UN development projects. (Article 21) Sector activities are carried out through world and regional telecommunication development conferences, study groups and the Telecommunication Development Bureau. (Article 22) World development conferences are to be convened every four years, between Plenipotentiary Conferences, to produce conclusions which take the form of "resolutions, decisions, recommendations or reports." (Article 22) Regional development conferences are convened "subject to resources and priorities." (Article 22) The specific duties of the world and regional telecommunication development conferences, as well as the study groups and the Telecommunication Development Bureau are set out in the Convention. (Articles 23-24)

Other Structural Changes In addition to the permanent sectors, the constitution authorizes world conferences on international telecommunications which may revise the international telecommunications regulations and deal with telecommunications questions of a worldwide character. (Article 25)

A number of modifications were also made with respect to operating procedures and responsibilities of ITU leadership. For instance, Plenipotentiary Conferences, formerly convened every five years, are now required to be held every four. Moreover, additional authority has been provided to the Administrative Council, renamed "the Council", to "consider broad telecommunications policy issues," an area in which it historically has not played a major role.

Constitutional Amendment Process.

Provisions were also added governing the process of constitutional amendment. Under Article 55, proposed amendments to the constitution must "reach" the Secretary-General no later than eight months prior to the scheduled opening date of the next Plenipotentiary Conference. Upon receipt of the proposed amendment, the Secretary-General is required to forward the proposal to Union Members no later than six months prior to the opening date. A quorum of one-half of the delegations accredited to the Plenipotentiary Conference and approval by at least two thirds of such delegations, which have the right to vote, is required for consideration and adoption of a constitutional amendment.

Amendments adopted at the Plenipotentiary Conference are entered into force at a date determined by the conference and are subsequently subjected to the process of ratification, acceptance, approval and accession normally applicable to the constitution as a whole. Under this process, signatory Members of the Union have two years from the date of entry into force to ratify the constitution (or amendment) in accordance with the Member's own constitutional rules. At the end of the two year period, Members that have not submitted an instrument of ratification to the Secretary-General lose all voting rights until the instrument has been so submitted.

B. CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION

The Convention of the International Telecommunications Union builds on the ITU Constitution and generally addresses the functional and procedural matters that were contained in the second part of earlier conventions titled "General Regulations." It consists of six chapters: Functioning of the Union (Arts. 1-22); General Provisions Regarding Conferences (Arts. 23-25); Rules of Procedure (Art. 32); Other Procedures (Arts. 33-35); Various Provisions Related to the Operation of Telecommunication Services (Arts. 36-40); and Arbitration and Amendment (Arts. 41-42). Key provisions are highlighted below.

ITU Conferences.

The Convention expands on Constitution provisions that place ITU administrative conferences on a regular schedule, making clear that between Plenipotentiary Conferences the following will take place: two world radiocommunications conferences, one world

telecommunication standardization conference, one world telecommunications development conference and two radiocommunication assemblies, associated in time and place with the world radiocommunication conference (Article 3). It also provides a process for canceling one world radiocommunication conference and adding a standardization conference (Article 3). World telecommunication conferences, which may revise the International Telecommunications Regulations and deal with any other relevant global issue in the area, may be held if so decided by a Plenipotentiary Conference (Article 3). These will be subject to conference procedures applicable to radiocommunication conferences (Article 3).

Radiocommunication Sector.

The Convention elaborates on the activities of the six entities that compose the Radiocommunication Sector: the world radiocommunication conference, the radiocommunication assemblies, the regional radiocommunication conferences, and the Radio Regulations Board, and the radiocommunication study groups, and the Radiocommunication Bureau (Articles 7-12). The major activities of this sector are the allocation of terrestrial radio spectrums (the complete range of frequencies of electromagnetic radiation useful in radio communication), and the allocation of satellite orbital positions.

The Convention places world radiocommunication conferences, which are normally to be convened every two years, on a four-year planning cycle, requiring each conference to submit agenda items to the Council for a period of this length (Article 7). The general scope of the agenda is to be decided four years before the conference, with the final agenda to be approved by the Council two years in advance with a concurrence of a majority of Members (Article 7). Radiocommunication assemblies, which provide the technical work for world conferences, consider and issue recommendations on questions adopted under their own procedures as well as questions referred to them by the Plenipotentiary Conference, any other conference, the Council or the Radio Regulation Board (Article 8). Regional radiocommunication conferences may deal only with questions of a regional nature and may not consider non-agenda items (Article 9). Agendas are drawn up and adopted pursuant to the procedures in place for world radiocommunication conferences (Article 9).

The Convention increases the membership of the Radio Regulation Board (formerly the International Frequency Registration Board) from 5 to 9 Members, though the Board now operates on a part-time basis due to the increasingly routine nature of its work (Article 10; Constitution, Article 14). Members are elected by the Plenipotentiary Conference (Article 10). In addition to duties listed in the Convention, the Board considers reports from the Director of the Radiocommunication Bureau on investigations of harmful interference carried out at the request of one or more of the interested administrations of Members of the Union and formulates recommendations as to these matters (Article 10). The Board normally convenes four meetings a year, at which at least two-thirds of its Members are to be present, and may carry out its duties using

"modern means of communication." Board decisions should normally be unanimous, but if this fails, decisions may be made by (and only by) a two-thirds vote of the Board (Article 10).

The Convention sets forth the duties of the radiocommunication study groups, which are set up by radiocommunication assemblies (Article 11). These groups study the spectrum use, characteristics and performance of radio systems, operations of radio systems, and radiocommunication aspects of distress and safety matters, but do not generally address economic matters unless this issue arises in the consideration of technical alternatives (Article 11). Recommendations are submitted to radiocommunication assemblies for adoption but may also be adopted by national administrations in the interim (Article 11). The Convention contemplates cooperative activities with other telecommunication organizations and with the work of other ITU sectors (Article 11).

The Convention spells out the functions of the Radiocommunication Bureau, which organizes and coordinates the work of the Sector (Article 12). Bureau functions include, inter alia, undertaking preparatory activities for radiocommunication conferences; supporting the work of the Radio Regulation Board; coordinating and organizing of the work of study groups; carrying out studies as to the maximum practical number of radio channels with the aim of eliminating harmful interference and attaining equitable and effective use of the geostationary-satellite orbit; and providing technical support to the Telecommunication Development Sector (Article 12).

Telecommunication Standardization Sector.

The Convention details the activities and functions of the Telecommunication Standardization Sector, which consists of three bodies: the world telecommunication standardization conference, telecommunication standardization study groups, and the Telecommunication Standardization Bureau (Articles 13-15). World telecommunication standardization conferences consider the reports of study groups and approve, modify, or reject recommendations contained therein; approve work programs arising from existing and new questions; decide, on the basis of these work programs, whether to maintain, terminate or create study groups, and allocate work to them; group questions of interest to developing countries to facilitate their participation in work programs (Article 13). This sector is primarily responsible for the adoption of standards for telecommunications equipment and systems.

Telecommunication standardization study groups study and prepare recommendations which may be approved by world conferences or by administrations in the interim (Article 14). They are charged with studying technical, operating and tariff questions and prepare recommendations with a view to worldwide telecommunication standardization (Article 14). This work and the technical work of radiocommunication study groups is to be kept under regular review by the Telecommunication Standardization and Radiocommunication Sectors with a view to reaching common agreement on changes in the distribution of matters under study (Article 14). Study groups are also charged with paying "due attention" to matters dealing with telecommunication infrastructures in

developing countries and to cooperate with other national, regional, and international standardization organizations working in the area, all the while maintaining the ITU's primary global role in telecommunication standardization (Article 14). As with the Radiocommunication Sector, the Convention contemplates cooperative activities with other telecommunication organizations and with the work of other ITU sectors (Article 14).

Telecommunication Development Sector.

The duties and functions of the three components of the Telecommunication Development Sector—the telecommunication development conferences, telecommunication development study groups, and the Telecommunication Development Bureau and Advisory Board—are set forth in Articles 16-18 of the Convention. Telecommunication development conferences serve as a forum for the study of issues related to telecommunication development, fix objectives and strategies aimed at a balance in global and regional development of telecommunications and, at the world level, establish work programs and guidelines for defining telecommunications questions and priorities, provide guidance and direction for the sectoral work program, and set up study groups, as necessary (Article 16).

Study groups, which are limited in number and created for limited periods of time, have specific terms of reference related to specific telecommunication questions of general interest to developing countries (Article 17). Matters under study are to be kept under continuing review by each of the three sectors with the aim of agreeing on work distribution so as to avoid duplication and promote inter-sectoral coordination (Article 17).

The Telecommunication Development Bureau organizes and coordinates the work of the Sector, providing it with administrative and technical support for the sector and working with other elected ITU officials to strengthen "the Union's catalytic role in stimulating telecommunications development" (Article 18).

The Convention also establishes a Telecommunication Development Advisory Board, appointed by the Sector Director in consultation with the Secretary-General (Article 18). It is to be "composed of persons with a wide and equitable cross-section of interests and expertise in telecommunication development" and has the task of "advis[ing] the Director, who shall participate in its meetings, on priorities and strategies in the Union's telecommunication development activities ...[and] inter alia, recommend[ing] steps to foster cooperation and coordination with other organization interested in telecommunication development" (Article 18).

Council.

As amended by the 1994 Kyoto Amendments, the Convention provides that the number of Members of the ITU Council is to be decided by each Plenipotentiary Conference and may constitute no more than 25 percent of the total number of ITU Members (Article 4, as amended). As it does now, the Council is to hold an annual ("ordinary") session at the seat of the Union and, if needed, may at that time decide to hold an additional session (Article 4). Along with its current functions, the Council must annually consider the

Secretary-General's strategic policy and planning report and take appropriate action (Article 4). In the interval between Plenipotentiary Conferences, the Council supervises the overall management and administration of the ITU. Unlike the earlier Convention, the 1992 Convention sets forth a procedure for the election of Council members where a vacant seat cannot be automatically filled (Article 2).

General Secretariat.

The Convention details the specific functions of the Secretary-General of the ITU (Article 3). Added to the functions set forth in earlier Conventions (including preparation of the draft budget), the Secretary-General is responsible for the overall management of the Union's resources, coordinates the activities of the General Secretariat and the three new Sectors, prepares an annual strategic planning report for the ITU Council, and undertakes additional tasks supporting the work of sectors.

Coordination Committee.

As did the "General Regulations" of earlier Conventions, the 1992 Convention elaborates on the tasks assigned to the Coordination Committee in the Constitution and sets forth general Committee procedures (Article 6). The Convention gives the Committee specific responsibility to ensure coordination with the United Nations and other international organizations with telecommunications-related interests as to ITU representation at their meeting and to examine the progress of the ITU and assist the Secretary-General in preparing his strategy report (Article 6). As now, the Committee is to reach conclusions unanimously, and absent a majority support, the Chairman may take decisions on urgent matters (Article 6). The Convention continues the current practice of convening monthly meetings (Article 6).

Budget.

In contrast to former Conventions, the 1992 Convention places the ITU on a biennial, rather than annual, budget cycle (Articles 4-5). As in the past, the budget is to be prepared by the Secretary-General (in consultation with the Coordinating Committee) and reviewed and approved by the ITU Council. The budget is to be based on a 4-year budget ceiling determined at each Plenipotentiary Conference (Constitution, Article 8). While prior Conventions required the Plenipotentiary Conference to establish a "fiscal limit" for the period between conferences, the 1992 Constitution uses the term "ceiling" and newly requires that the Conference's budget decision be based in part on the Council's strategic policy and planning recommendations (Constitution, Article 8).

In making its budget decisions, the Council must take into account the views of the Coordinating Committee submitted to the Secretary General for incorporation into his annual strategic policy and planning report, as well as the Secretariat's annual financial operating report (Article 4). The Council must also consider a two-year budget forecast for the period following the approval of any budget based on the actions of the Plenipotentiary Conference and the above-described views and reports (Article 4).

Under the 1992 Convention, the Secretary General must prepare a consolidated budget, including cost-based budgets for each of the three Sectors prepared in accordance with the Secretary General's budget guidelines (Article 5). As is the current requirement, the Secretary must prepare two budgets: one for zero growth of the contributory limit, and the second for growth less than or equal to any limit fixed by the Plenipotentiary Council after any drawing on the ITU Reserve Account (Article 5).

The United States is assessed 8.274 percent of the ITU budget (the equivalent of 30 "units" under the ITU assessment structure). Under this formula the United States pays about $8.5 million per year to the organization. Contributions the U.S. and other nations make to development organizations such as the United Nations Development Program also are transferred to the ITU for development activities. In addition, private sector members pay dues to the ITU. A private sector member must give a minimum of $35,000 for membership in the ITU. Together, all U.S. private sector members pay about 8 percent of the ITU budget. Unlike most other U.N. organizations, the ITU also assesses interest penalties and revenue generating activities to offset budget shortfalls.

Increased participation of private sector groups.

The increasing number of non-state actors in the telecommunications field has led the ITU to allow these organizations to play a greater role in ITU activities in order to better fulfill the Union's international coordinating mission. In the past, recognized private operating agencies (RPOAs) and scientific or industrial organizations (SIOs) had participated in ITU activities along with national telecommunications administrations. In addition, prior Conventions allowed certain non-Members to attend ITU conferences as observers.

The 1992 Convention now recognizes an even greater role for non-governmental organizations, allowing three specific categories of entities to participate in the work of ITU sectors. These are: (1) recognized operating agencies, scientific or industrial organizations [1] and financial or development institutions that are approved by the Member concerned; (2) other entities dealing with telecommunication matters that are approved by the Member concerned; and (3) regional and other international telecommunication, standardization, financial or development organizations (Article 19).

Requests from an entity in the first category approved by the Member concerned need only be forwarded to the Secretary General; requests from entities in the second category submitted by the Member concerned are handled under procedures established by the Council and are reviewed for conformity with that procedure. Requests from entities in the third category are submitted to the Secretary General and acted upon by the Council. In addition, agencies that have been invited to participate in ITU Plenipotentiary Conferences in the past (the United Nations, regional

[1] The term "scientific or industrial organization" is defined as "[a]ny organization, other than a governmental establishment or agency, which is engaged in the study of telecommunication problems or in the design or manufacture of equipment intended for telecommunication services." Convention, Annex (¶ 1004).

telecommunication organizations, intergovernmental organizations operating satellite systems, and specialized agencies of the U.N. and the International Atomic Energy Agency) may also submit requests to participate in the work of sectors, which requests are to be sent to the Secretary General. Entities in the three categories listed earlier, as well as international organizations representing them, may also be invited as observers to Plenipotentiary Conferences (Article 23, as amended).

All organizations authorized to participate in sectoral work are referred to as "members" of the sector involved. While these entities do not have the rights and obligations generally pertaining to ITU Members, they must share in defraying the expenses of the conferences or sectors in which they are involved pursuant to formulas set forth in the Convention (Article 33, as amended).

The Convention's Rules of Procedure allow the press and the public, to the extent practicable, to attend ITU conferences in accordance with ITU guidelines and the practical arrangements made by the Secretary-General; they may not attend other ITU meetings, however, unless the meeting in question decides otherwise (Article 32, ¶ 23).

While neither the Convention nor the Constitution specifically provide for Advisory Groups on Radiocommunications and Standardization Sectors, the 1992 Plenipotentiary Conference adopted a resolution encouraging the establishment of such groups which would provide outside advice to the sectors. Advisory Groups consist of "government representatives, Study Group chairpersons, Recognized Private Operating Agencies (RPOAs), Scientific or Industrial Organizations (SFOs), and are chaired by the Sector Director."

A Radiocommunication Advisory Group and a Telecommunications Standardization Advisory Group have since been created. The former is directed to "review the priorities and strategies adopted in the Sector, monitor progress of the work of the Study Groups, provide guidance for the work of the Study Groups, [and] recommend measures for fostering cooperation and coordination with the other ITU Sectors" and provides advice to the Director of the Radiocommunications Bureau on these issues. As noted earlier, the Convention established a Telecommunications Development Advisory Board, which generally carries out the types of activities undertaken by the Advisory Groups described above (Article 18).

Amendments.

As it is now a permanent ITU instrument, the 1992 Convention contains provisions and procedures for amendments (Article 42). Amendments may only be adopted by an ITU Plenipotentiary Conference. Proposed amendments, which may be initiated by any ITU Member, must be submitted to the ITU Secretary-General at least 8 months before the Conference is scheduled to begin. Modifications may be submitted at the Conference by a Member or its delegation at any time. To be adopted, proposed modifications, or the proposed amendments as a whole, require a majority vote of accredited delegations that have the right to vote.

This procedure creates a less onerous approval requirement than that for the ITU Constitution, which requires a two-third vote.

Adopted amendments, which are to be contained in a single amending instrument, enter into force at a date fixed by the Conference between Members having deposited their instruments of ratification for the Constitution and Convention and the amending instrument before that date (Article 42). Ratification after that date take effect on the date the instrument of ratification is deposited with the Secretary- General (Article 42).

IV. Entry Into Force and Termination

A. ENTRY INTO FORCE

The Constitution and Convention entered into force on July 1, 1994 between Members that deposited their instruments of ratification (Article 58), replacing the 1982 ITU Convention. For the United States, the Constitution and Convention will enter into force upon the date of deposit of the U.S. instrument of ratification with the Secretary-General of the United Nations (Article 53).

B. TERMINATION

Any party, including the United States, may withdraw from the treaty by so notifying the Secretary General of the United Nations in writing. Upon such notice, withdrawal shall take effect one year from the date of receipt of such notification.

V. Committee Action

The Committee on Foreign Relations held a public hearing on the proposed treaty on September 17, 1997. The hearing was chaired by Senator Rod Grams. The Committee considered the proposed treaty on October 8, 1997, and ordered the proposed treaty favorably reported with two understandings, two declarations, and one proviso by voice vote, with the recommendation that the Senate give its advice and consent to the ratification of the proposed treaty.

VI. Committee Comments

The United States international telecommunications industry has grown during the past several years to make the United States the leading provider and consumer of telecommunications goods and services. In fact, in 1996 the U.S. trade surplus in telecommunications equipment amounted to $3.62 billion—a 4.3 percent growth over the previous year. In all the United States telecommunications industry generated $63.7 billion in 1996 according to the Telecommunications Industry Association.

In light of the importance of the global telecommunications market to U.S. economic interests the Committee supports the continued active participation of the United States in the International Telecommunication Union. The Committee favorably recommends the Senate's ratification of the ITU Constitution and Convention and thereby supports the important restructuring of the ITU established by the Constitution and Convention.

Specifically, the restructured ITU Constitution and Convention will enhance the role of the private sector and the ability of the organization to react to changing needs of the telecommunication in-

dustry. The Constitution and Convention regularize the scheduled meetings of the radiocommunication sector, so that world radio conferences are held every two years to consider changes to international radio regulations. The new Convention also expands the list of private sector entities authorized to participate in the ITU sectors, and expands their role in these sectors through advisory groups. The Administration testified that the new procedures for rapid consideration and adoption of recommended standards under the Convention should enable the United States to forward global standards for the products and services of U.S. companies in about half the time previously required.

Given the efforts to reform and streamline international organizations, the Committee is encouraged by the efforts of the ITU to place the budget on a biennial cycle, to require the use of strategic planning, and to allow for increased private sector participation in the ITU's activities. The Committee believes that such a system forces an organization to be both more accountable and more responsive to its contributors. Such a system creates an incentive for high performance since without a continued level of support from the parties, organizations that rely on voluntary funding will be unable to sustain themselves.

The resolution of ratification approved by the Committee reaffirms, and thereby highlights, the U.S. understanding with regard to two important declarations it made to the Final Acts of the Constitution and Convention. The first, regarding Cuba, affirms U.S. rights to broadcast to Cuba free of jamming or other interference, to address interference by Cuba, and to meet radio communication requirements in the U.S. base in Guantanamo. The second makes clear that Article 44 of the Constitution does not grant any sovereign rights over segments of the geostationary orbit, nor does any country have preferential rights over any such segment.

The proposed resolution of ratification makes clear the Committee's opposition to Article 33(3) of the Constitution, which permits the ITU to levy interest on late payment of contributions. The declaration requires that the Administration seek to amend Article 33(3) of the ITU Convention to eliminate the ITU's authority to impose interest payments on ITU members. In addition the declaration restates U.S. appropriation law with regard to funding of international organizations—that is, payments by the United States to the International Telecommunication Union are limited to contributions appropriated by Congress. This provision does not apply to United States payments voluntarily made for a specific purpose, such as funding of the 1998 Plenipotentiary Conference of the ITU in Minneapolis, Minnesota.

The Committee also notes that although the United States signed the Constitution and Convention in 1992 and its amendments in 1994, the Administration failed to submit these documents to the Senate for advice and consent to ratification until 1996—two months after the United States lost its right to vote under ITU rules. Given the importance of the telecommunication industry to the United States, the Committee is concerned by the Administration's inexplicable delay in submission of this treaty for advice and consent.

Finally, the Committee notes that the United States will host the 1998 ITU Plenipotentiary Conference next fall in Minneapolis, Minnesota. This is the first international conference to be held in the United States in 50 years. The last two such conferences were held in France and Japan—two of the most significant competitors to the United States in this area. The Committee anticipates that the 1998 Plenipotentiary Conference will provide an opportunity for the United States to showcase U.S. telecommunications technology and areas for future development. Ratification of the Constitution and Convention is essential to making the United States a full voting member prior to the 1998 Plenipotentiary Conference.

VII. Resolution of Ratification

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Constitution and Convention of the International Telecommunication Union (ITU), with Annexes, signed at Geneva on December 22, 1992, and Amendments to the Constitution and Convention, signed at Kyoto on October 14, 1994, together with Declarations and Reservations by the United States contained in the Final Acts (Treaty Doc. 104-34), subject to declarations and reservations Nos. 68, 73 and 82 of the 1992 Final Acts; declarations and reservations Nos. 84, 92, 97, and 98 of the 1994 Final Acts; and the understandings of subsection (a), the declarations of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDINGS.—The Senate's advice and consent is subject to the following two understandings, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) BROADCASTS TO CUBA.—The United States of America, noting the Statement (No. 40) entered by the delegation of Cuba during the Plenipotentiary Conference of the International Telecommunication Union, in Kyoto Japan, affirms its rights to broadcast to Cuba on appropriate frequencies free of jamming or other wrongful interference and reserves its rights to address existing interference and any future interference, by Cuba with United States broadcasting. Furthermore, the United States of America notes that its presence in Guantanamo is by virtue of an international agreement presently in force; the United States of America reserves the right to meet its radio communication requirements there as heretofore.

(2) GEOSTATIONARY-SATELLITE ORBITS.—The United States understands that the reference in Article 44 of the Constitution to the "geographical situation of particular countries" does not imply a recognition of claim to any preferential rights to the geostationary-satellite orbit.

(b) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President:

(1) ASSESSED PAYMENTS TO THE UNITED NATIONS INTERNATIONAL TELECOMMUNICATION UNION.—Payments by the United States to the International Telecommunication Union shall be limited to assessed contributions, appro-

priated by Congress. This provision does not apply to United States payments voluntarily made for a specific purpose other than the payment of assessed contributions. The United States shall seek to amend Article 33(3) of the ITU Convention to eliminate the ITU's authority to impose interest payments on ITU members.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The Senate's resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

APPENDIX

INTERNATIONAL TELECOMMUNICATION UNION CONSTITUTION AND CONVENTION (TREATY DOC. 104–34)

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INTERNATIONAL TELECOMMUNICATION UNION CONSTITUTION AND CONVENTION (TREATY DOC 104–34)

WEDNESDAY, SEPTEMBER 17, 1997

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 10:03 a.m. in room SD–419, Dirksen Senate Office Building, Hon. Rod Grams presiding.

Present: Senator Grams.

Senator GRAMS. Good morning. This hearing will now come to order. I just wanted to make a few brief comments this morning and then, Ambassador, we will hear your opening remarks as well.

Today, as you know, the committee will consider the Constitution and Convention of the International Telecommunication Union, or the ITU, with Annexes and the 1994 Amendments to the Constitution and Convention, as well, together with Declarations made by the United States in the Final Acts.

In a few moments we will hear testimony from our representatives of the State Department and also from the private sector involved in the work of the ITU.

In our global economy, the telecommunication services industry has become one of the fastest growing areas of economic activity. Private sector innovation and technological developments have enabled the United States to become a leader in the international telecommunications arena. The United States is one of the leading providers and consumers of telecommunication goods and services and with an increasing number of countries liberalizing and deregulating the markets, business opportunities for U.S. corporations continue to increase.

I strongly believe that it is in the national security, economic, and commercial interests of the United States to work with other countries in a manner that promotes the rational use of telecommunication services, that helps to encourage technological advancement and also helps to insure competition in the telecommunications industry.

As the United Nations' specialized agency for telecommunications, the ITU is a critical component of our effort in fulfilling this responsibility. However, the active participation of the United States in the ITU has been threatened by our country's failure to, so far, ratify the ITU Constitution and Convention that was adopted in Geneva in 1992.

Now under the ITU Constitution, signatory members who did not deposit an instrument of ratification for the Constitution and Convention within 2 years of these instruments entering into force are not entitled to vote at any ITU conference, council session, sectoral meeting or consultation by correspondents until an instrument of ratification is deposited.

Although the United States signed these instruments when they were first opened for signature, the administration failed to submit this treaty document to the Senate for ratification until 2 months after the U.S. had lost its right to vote under the ITU rules.

The activities of the ITU are of growing importance to the United States' telecommunication industry, and further delay in consideration of this treaty jeopardizes billions of dollars in business opportunities for U.S. telecommunications companies.

Now as chairman of the Senate Foreign Relations Subcommittee on International Operations, I have had the opportunity to work to institute reforms within the operation of the U.N. I am also encouraged by the proposed restructuring of the ITU and the adoption of reforms, such as placing the budget on a biennial budget cycle, requiring the use of strategic planning and allowing for increased participation of private sector and international organizations in the ITU activities. These changes were proposed in order to respond to the changing telecommunications industry.

It will also help the ITU to fulfill its purpose as the principal global forum for telecommunications standardization, for the management and use of the radio spectrum, and for also promoting and for offering technical assistance in the field of telecommunications to developing countries.

The United States was one of the 21 member States that developed many of these reform proposals and I am confident that our interest in maintaining our leading role in the global telecommunications arena has been preserved by these recommendations.

The United States has also been granted the great honor of hosting the 1998 Plenipotentiary Conference next fall in Minneapolis. This is the first international conference to be held in the United States in 50 years. Its importance cannot be underestimated since the most critical issue concerning the mission and the purpose of the ITU are determined during the conference.

In recent years, these conferences have been hosted by two of the United States' most significant competitors in telecommunications technology and development, those being France and Japan. The conference will allow the U.S. to emphasize its leadership within the telecommunications industry. It will also help to showcase American technology to dignitaries from over 180 member States and also 363 private sector companies and organizations that have expressed an interest in telecommunications issues.

Also, as an honorary co-chair of the conference, I am confident that the commitment shown by our Government, by our private sector, and by the ITU Host Committee toward the conference demonstrates the importance that the United States places upon remaining active in transforming this industry.

So as we approach the 21st Century, the boundaries between the United States and other industrialized countries have become blurred by the rapidly changing nature of the telecommunications

industry. It is necessary, I believe, for all parties involved in this environment to have a forum to discuss the complex policies and strategies that are so vital to their telecommunications infrastructure.

So I look forward to the testimony from this morning's witnesses as to whether this treaty package is the appropriate vehicle with which we try to achieve these goals.

With that, I would like now to turn this over to our first witness.

Again, Ambassador, welcome. Thank you very much for your time to be here this morning. We look forward to your testimony.

STATEMENT OF HON. VONYA McCANN, COORDINATOR FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY, U.S. DEPARTMENT OF STATE

Ambassador MCCANN. Thank you, Mr. Chairman.

I cannot tell you how pleased I am to be here this morning to testify in support of the ratification of the Constitution and Convention of the International Telecommunication Union, or the ITU, and to urge the Senate's advice and consent to ratification by the President.

The treaty under consideration establishes the framework for the work of the ITU, the specialized agency for telecommunications matters. The ITU is a unique organization, dating back from 1965, when European countries saw a need to work together to facilitate telegraphic communications across their boarders.

Today, the ITU is involved in every phase of global telecommunications. It is the principal forum for telecommunications standardization activities, for management and use of the radio spectrum, and for promoting and offering technical assistance in the field of telecommunications to developing countries.

Its 187 member countries work to maintain international cooperation for the improvement and rational use of all types of telecommunications services.

Among United Nations agencies, the ITU is unusual in that, although it is an intergovernmental organization, it provides for extensive, direct participation by various nongovernmental entities, including private companies, in most of its activities.

This feature is particularly vital to U.S. interests in view of our complete reliance on the private sector for the provision of telecommunications networks and services on both national and international levels.

Approximately 90 U.S. companies have chosen to become sector members of the ITU. Those companies, which are world leaders in communications technologies and services, have a profound influence on ITU activities.

At the Department of State, my responsibility is to coordinate our overall relations with and participation in the activities of the ITU. This includes the presentation of U.S. proposals to the ITU and its members, development of strategies and positions related to conference issues, and the assembly of well qualified delegations to carry out the complex and highly technical negotiations.

The Department is assisted in detailed preparations for the ITU conferences by the Federal Communications Commission, which is responsible for nongovernmental telecommunications, and the De-

partment of Commerce's National Telecommunications and Information Administration, which is responsible for governmental telecommunications, and various other U.S. Government departments and agencies, including the Department of Defense.

One important advantage of this extensive national effort is that it insures that the United States is well prepared for the conference negotiations and implementation of their results. The national preparatory process provides interest groups and members of the public with the opportunity to express themselves at each stage of the process, from the initial conception of ideas to the eventual adoption of national regulations.

Currently, this national effort is underway as we prepare for the ITU's World Radio Conference, or WRC–97, which will be held in Geneva from October 27 to November 21. At WRC–97, the world's radio experts will gather to decide on international frequency spectrum and satellite orbital allocations, which will influence radio-based communications services well into the next century.

Hundreds of U.S. Government and private sector representatives have been preparing for this conference for nearly 2 years. As the world leader in innovative radio and satellite based technologies, the United States has a significant stake in the outcome of this important conference.

As you noted, as of July 1, 1996, only those countries which have ratified the 1992 Constitution and Convention are entitled to vote in the ITU. By becoming a party to this treaty, the United States will be able to play a full, active and leadership role in WRC–97. It also will convey our continuing commitment to and strong support for the mission of the ITU. There is uniform support for the U.S. becoming a party to this treaty, subject to the reservations described in the reports of the Secretary of State.

I will give only a very brief summary of some of the important provisions of this treaty.

The 1992 ITU Plenipotentiary Conference was convened to consider proposals by ITU member countries concerning the restructuring of the ITU. The 1992 conference decided to recommend that the ITU adopt full texts of a new Constitution and Convention, one that could be amended as necessary by future plenipotentiary conferences.

The 1992 Constitution and Convention are intended to enable the ITU to enter the 21st Century as an effective international telecommunications policy and spectrum allocation organization. They restructure the ITU by establishing three sectors—radiocommunications, telecommunication standardization, and telecommunications development—which replace the ITU's previous permanent organs.

Each sector is headed by a director who is elected by the member countries at plenipotentiary conferences. As you noted, the next conference will be held in the fall of 1998, and hosted by the United States in your home State of Minnesota.

Chapter II of the Constitution covers the radio communication sector. It replaces the World Administrative Radio Conferences which were convened on an ad hoc basis to consider changes to the international radio regulations with world radio conferences, WRC's, which now are held every 2 years.

Chapter III of the Constitution addresses the telecommunication standardization sector. It changes the name and mandate of the conferences for this sector to reflect the fact that the sector deals with a broad range of rapidly evolving telecommunications services over both the public switched network and private lines, as well as issues such as international numbering plans and international settlement of accounts.

Chapter VI of the Constitution covers the telecommunication development sector, which is intended to facilitate and enhance telecommunications development. The conference decided that the World Telecommunication Development Conference will be held every 4 years and that the frequency of regional conferences will depend on the availability of resources and need.

The next World Telecommunication Development Conference will be held in Malta next year.

The convention expands the list of private sector entities authorized to participate in the world of the ITU sectors to include scientific and technical organizations, financial or development institutions, and other entities dealing with telecommunications matters. Additionally, to further enhance the participation of those entities and to provide them with a role in determining the priorities of the study groups in the radio and telecommunication standardization sectors, the convention establishes advisory groups for the two sectors.

The 1992 Constitution and Convention also makes significant changes to the management of the ITU. Those changes are designed to increase its effectiveness and responsiveness.

For example, new procedures were added to permit rapid consideration and adoption of recommended standards. As a result, the United States can get the ITU to adopt a global standard for a U.S. company's product or service in less than half the time than was required previously.

Other changes to the budget cycle and to ratification and the effective dates of amendments were also made.

In 1994, the Kyoto Plenipotentiary Conference was convened. That conference took place less than 4 months after the entry into force of the 1992 Constitution and Convention. At the 1994 Conference, member States advanced a large number of proposals to amend the new Constitution and Convention and even some proposals to revert back to the old documents.

After much deliberation, the Kyoto Conference rejected the vast majority of those proposals. Instead, the 1994 Conference resulted in only minor changes to the Constitution and Convention concerning the functioning of the Plenipotentiary Conference, elections, and finances.

In addition, an amendment to the convention, which was strongly supported by the U.S. private sector, permits private sector entities to send observers to the plenipotentiary conferences and we look forward to their participation in the Minneapolis Plenipotentiary.

Mr. Chairman, this completes my summary of this important treaty. I have been pleased to present this testimony and to discuss with you the significance of the ITU to the United States. I urge

that the Senate act favorably on this very important treaty at the earliest opportunity. Thank you.

[The prepared statement of Ambassador McCann follows:]

PREPARED STATEMENT OF ABASSADOR VONYA MCCANN

Mr. Chairman, I am pleased to be here to testify in support of the ratification of the constitution and convention of the International Telecommunication Union ITU, and to urge the Senate's advice and consent to ratification by the President. The treaty under consideration is the constitution and convention of the ITU, with annexes, signed by the United States at Geneva on December 22, 1992; amendments to the constitution and convention signed by the United States at Kyoto on October 14, 1994; and U.S. declarations and reservations, as contained in the declarations and reservations made by participating member countries at the end of the Geneva and Kyoto conferences.

This treaty establishes the framework for the work of the ITU, the specialized agency for telecommunications matters. The ITU is a unique organization, dating from 1865 when European countries saw the need to work together to facilitate telegraphic communications across their borders. Today, the ITU is involved in every phase of global telecommunications. It is the principal forum for telecommunication standardizaton activities, for management and use of the radio spectrum, and for promoting and offering technical assistance in the field of telecommunications to developing countries. Its 187 member countries work to maintain international cooperation for the improvement and rational use of all types of telecommunication services.

Among United Nations agencies, the ITU is unusual in that although it is an intergovernmental organization, it provides for extensive, direct participation by various non-governmental entities -- including private companies -- in most of its activities. This feature is particularly vital to U.S. interests, in view of our complete reliance on the private sector for the provision of public telecommunications networks and services on both national and international levels, and the reliance of U.S. companies on effective communications to support their multinational operations. Approximately 90 U.S. companies have chosen to become "sector member" or so-calleid, "Small-M Members" of one or more sectors of the ITU. Those companies, which are world leaders in communication technologies and services, have a profound influence on ITU activities.

At the Department of State, my responsibility is to coordinate our overall relations with, and participation in, the activities of the ITU. This includes the presentation of U.S. proposals to the ITU and its member countries, development of strategies and positions relating to conference issues, and assembly of well-qualified delegations to carry out the complex and highly technical negotiations. The Department is assisted in the detailed preparations for ITU conferences by the Federal Communications Commission (FCC), which is responsible for non-governmental telecommunications; the Department of Commerce's National Telecommunications and Information Administration (NTIA), which is responsible for governmental telecommunications; and various other U.S. Government Departments and agencies, including the Department of Defense.

One important advantage of this extensive national effort is that it ensures that the United States is well prepared for the conference negotiations and implementation of their results. The national preparatory process provides interest groups and members of the public with the opportunity to express themselves at each stage of the process, from initial conception of ideas to the eventual adoption of national regulations.

Currently, this national effort is underway as we prepare for the ITU's World Radiocommunication Conference (WRC-97), which will be held in Geneva from October 27 to November 21. At WRC-97, the world's radio experts will gather to decide on international frequency spectrum and satellite orbital allocations which will influence radio-based communications services well into the next century. Hundreds of U.S. Government and private sector representatives have been preparing for this conference for nearly two years. As the world leader in innovative radio and satellite-based technologies, the United States has a significant stake in the outcome of this important conference.

As of July 1, 1996, only those countries which have ratified the 1992 constitution and convention are entitled to vote in the ITU. By becoming a party to this treaty, the United States will be able to play a full, active, leadership role in WRC-97. It also will convey our continuing commitment to and strong support for the mission

of the ITU. There is uniform support for the U.S. becoming a party to this treaty, subject to the reservations described in the reports of the Secretary of State.

I will give only a very brief summary of some of the provisions of this treaty.

The 1992 ITU plenipotentiary conference was convened to consider proposals by ITU member countries concerning the restructuring of the ITU. The 1992 conference decided to recommend that ITU members adopt full texts of a new constitution and convention, that could be amended as necessary, by future plenipotentiary conferences.

The 1992 constitution and convention is intended to enable the ITU to enter the 21st Century as an effective international telecommunications policymaking and spectrum allocation organization. It restructures the ITU by establishing three sectors -- radiocommunication, telecommunication standardization and telecommunication development -- which replace the ITU's previous permanent organs. Each sector is headed by a director who is elected by the member countries at plenipotentiary conferences. The next plenipotentiary conference will be held in the Fall of 1998 and hosted by the United States in Minneapolis, Minnesota.

Chapter II of the constitution (articles 12-16) covers the radiocommunication sector. The constitution replaces world administrative radio conferences, which were convened on an ad hoc basis to consider changes to the international radio regulations, with world radio conferences (WRCs), which now are held every two years. The constitution also replaces the five-member, full-time elected international frequency registration board, with a nine-member, part-time elected radio regulations board within the radio sector. The radio regulations board approves the rules of procedure used by the director and the radio bureau in applying the radio regulations to register frequency assignments made by members and considers certain matters that cannot be resolved by the bureau through application of the rules of procedure.

The telecommunication standardization sector is addressed in chapter III (articles 17-20) of the constitution. The constitution changes the name and mandate of the conferences for this sector to reflect the fact that the sector deals with a broad range of rapidly evolving telecommunications services over both the public switched network and private lines, as well as such issues as international numbering plans and international settlement of accounts.

Chapter VI of the constitution (articles 21-24) covers the telecommunication development sector, which is intended to facilitate and enhance telecommunications development. World and regional telecommunication development conferences, established by resolution in Nice, will continue to be convened. The world conferences are held approximately every four years; the frequency of regional conferences depend on availability of resources and need. The next world telecommunication development conference will be held in Malta in March, 1998.

The non-governmental entities and organizations authorized to participate in the work of the ITU sectors were expanded by article 19 of the convention to include, inter alia, scientific and technical organizations, financial or development institutions and other entities dealing with telecommunication matters that are approved by member states.

Additionally, to further enhance the participation of those entities and organizations described in article 19(L) of the convention and to provide them a role in determining the priorities of the study groups in the radiocommunication and telecommunication standardization sectors (convention, articles 11 and 14), the 1992 plenipotentiary conference established advisory groups for those two sectors. This helps to ensure that the ITU is responsive to the needs of member countries and to private sector participants in the ITU.

The 1992 constitution and convention also make significant changes to the management of the ITU designed to increase the ITU's effectiveness and responsiveness. For example, new procedures were added to permit more rapid consideration and adoption of recommended standards. As a result, the United States can get the ITU to adopt a global standard for a U.S. company's product or service in less than half the time required previously. Similarly, the two-year WRC cycle serves United States interests by facilitating the early introduction of new and innovative radio technologies, for which U.S. companies are the world leaders.

Articles 4 and 5 of the convention establish a two-year budget cycle instead of the past one-year cycle and mandate the establishment of a strategic plan for the ITU. Those articles instruct the ITU Secretariat to prepare an annual strategic policy and planning report for the ITU council to consider at its annual 8-day meeting.

Article 55 of the constitution and article 42 of the convention allow amendments to enter into force for countries that have ratified or approved the amendments by a date fixed by the adopting plenipotentiary conference rather than after two-thirds of the members have deposited instruments of ratification, acceptance or approval, or accession as had been adopted at the 1989 Plenipotentiary Conference.

The 1994 Kyoto Plenipotentiary Conference was convened less than four months after the entry into force of the 1992 constitution and convention. At the 1994 conference, member states advanced a number of proposals to amend the new constitution and convention. Those proposals sought to correct oversights, refine the 1992 changes, further restructure the ITU, and, in some instances, revert to earlier convention (Nairobi, 1982) provisions.

After much deliberation, the Kyoto conference rejected the vast majority of the proposals to amend the constitution and convention. The Kyoto conference resulted in only minor changes to the constitution concerning the functions of the Plenipotentiary Conference, elections and finances. In addition, an amendment to the convention--strongly supported by the U.S. private sector--provides for the ITU's Secretary-General to invite private sector entities and organizations described in article 19(l) to send observers to Plenipotentiary Conferences.

Mr. Chairman, this completes my summary of this important treaty. I have been pleased to present this testimony and to discuss the significance of the International Telecommunication Union to the United States. I urge that the Senate act favorably on this very important treaty at the earliest possible date.

Senator GRAMS. Thank you very much, Ambassador McCann. I appreciate your testimony.

We do not have a lot of questions. We do have a few. But I also want to remind you and our other witnesses this morning on our next panel that if we do not have other Senators here, I know many are interested and would like to submit questions in writing. So we would hope that you would take a look at that and respond as quickly as possible.

Ambassador MCCANN. We'd be happy to.

Senator GRAMS. The ITU Convention, as you mentioned, provides for a less onerous amendment process than that required for amending the ITU Constitution itself. The Constitution I believe takes a two-thirds vote for any amendment while the ITU Convention requires only a majority vote to amend the Convention.

Are you satisfied that it will be able to protect U.S. interests adequately in the ITU Convention amendment process? If so, why?

Ambassador MCCANN. Well, amendments to both the Constitution and Convention result from proposals by member States. In our U.S. preparatory process, we have the private sector fully involved as well as other Government agencies to flesh out issues that are of concern to both the Government and the private sector.

The Constitution was conceived of as a more permanent document than the Convention, which really implements in specific detail some of the aspects of the Convention.

We at all times will seek to use our vast human resources to influence the outcome of changes to the Convention at the conference. If we are not successful in doing that, we are always able to take reservations which minimize the impact of any such changes on the United States.

As you know, we have the advice and consent process where the Senate can advise us on any aspect of those changes that it has concerns about.

Senator GRAMS. So you are satisfied with that ratio?

Ambassador MCCANN. I am satisfied.

Senator GRAMS. A third sector dedicated to development issues is created under this new ITU Constitution and Convention. But what development obligations will the U.S. have upon ratification of the Convention and the Constitution?

Ambassador MCCANN. Well, we are a participant in all three sectors of the ITU and U.S. companies are participants in all three

sectors of the ITU. Right now, our participation, the Government's participation, extends to sending personnel to review proposals and the work plan of that sector and to help guide the work of that sector toward issues and values that we hold dear. Those are issues regarding competition, liberalization of the regulatory regimes, privatization and the benefits of private investment, especially foreign investment, and telecommunications services.

Senator GRAMS. The Constitution of the ITU also requires member States to pay their annual contributory shares "in advance."

The ITU Convention permits the ITU also to assess interest for those assessments that are overdue. Does this require the U.S. to pay its contributions at the beginning of the calendar year or would it be at the beginning of the ITU fiscal year?

Ambassador MCCANN. We are obligated to pay our dues at the beginning of the calendar year, and if those dues are not paid by the acts or provisions under the Convention, interest starts to accrue at 3 percent for the first 6 months and thereafter at 6 percent.

Under U.S. law, payments may be made down on those interest payments, but we have not done so for interest due for calendar year 1996 or interest accruing as a result of our failure to pay our dues in full as of the beginning of 1997.

Senator GRAMS. The State Department, as you know, frequently pays its assessments for international organizations at the end of the year. Is the United States in compliance with the ITU requirement?

Ambassador MCCANN. No. We were assessed our dues for calendar year 1997. We have paid approximately 81 percent of our assessed dues. There is a 19 percent shortfall, and interest is current accruing on that shortfall for 1997.

We did pay our dues in full for 1996, but they were paid late, and so, interest was assessed on those late payments and that is still outstanding—for 1996.

Senator GRAMS. The interest is?

Ambassador MCCANN. For 1996. That's correct.

Senator GRAMS. What accounts for the shortfall of the 19 percent and what are the dues, by the way?

Ambassador MCCANN. The dues for 1997 were 10 million Swiss francs, which is equal to about $8 million, depending on the exchange rate. We ended up paying a little over $6 million, or about $6.5 million earlier this year. Again, those dues were not paid in January, but later on after it became clear to the Department how much funds would be available for the payment of dues to international organizations.

As you know, the Department gets an allotment of funds to pay its dues and has to make decisions how to spread the money. It is not enough to pay all of the dues in full, all of the dues that we are assessed in full.

Senator GRAMS. Is it because of our calendar year versus a regular calendar year? I mean, our fiscal year ends not on January 1 but on September 30. Is that a problem with paying the dues to these funds?

Ambassador MCCANN. Well, only to the extent that we do not necessarily know how much money we will have to pay, the dues,

when they become due and owing at the beginning of the calendar year.

Senator GRAMS. Does the U.S. or will the U.S. make payments or pay the interest on the ITU obligations? The U.N. Reform Bill prohibits interest payments. Is that a problem or a question?

Ambassador MCCANN. It is not clear at this time whether we will be able to clear up the arrearages on the interest payments. It will depend on what Congress and the administration agree to as an overall package.

Senator GRAMS. Arrears seem to be a problem in many quarters.

Ambassador MCCANN. Yes.

Senator GRAMS. The administration also recently released a report concerning efforts made by the United Nations and specialized agencies there to employ a number of Americans during 1996. But, according to the report, the level of the number of Americans in professional positions within the ITU has declined over the last 4 years and also Americans that have had very strong qualifications have been passed over for senior positions within the ITU itself.

This is, I believe, a particular concern concerning a leading U.S. role in international telecommunications. In your opinion, does the lack of American representation among the senior professionals in the ITU jeopardize in any way our interest in regard to the work of the ITU?

Ambassador MCCANN. It is clearly a concern of mine and of the State Department in general, a concern which I have discussed with the Secretary General of the ITU.

I will confess that the United States plays such a dominant role in the organization as a result of the tremendous participation of the U.S. private sector and the skilled and expert Government officials, U.S. Government officials, that participate in the work of the ITU such that many in the ITU feel that we already dominate the organization and that those positions should rightfully, or, rather, that there is some equity in giving those positions to countries which do not play such a dominant role.

But it is a concern of ours about which I have spoken to the Secretary General, and we are trying to take steps to correct that situation.

Senator GRAMS. So your concerns would be to have more Americans in these positions?

Ambassador MCCANN. Absolutely. Absolutely.

Senator GRAMS. What can be done to increase the level? I know you've said you have talked to the Secretary General. Are there any other methods?

Ambassador MCCANN. Actually, I have been talking to members of the private sector about putting together some kind of training program which would encourage either Government officials or industry executives to have a tour at the ITU to work in a management position. We have been trying to get a regular, steady crop of good candidates over to the ITU, who speak multiple languages, which is a requirement. Many U.S. executives are making good money, are working in a tremendously exciting field, and do not necessarily regard a tour of duty at the ITU as something that is going to help them on their career path.

So we are trying to put together a way so that we can continually recruit and have a good supply of candidates for ITU positions, again, so that this situation does not continue.

Senator GRAMS. Last year, the ITU cleared the way for companies to have a single toll-free telephone number that can be dialed from anywhere in the world beginning in February of this year.

This, I believe, was a very significant development for U.S. companies considering that over $100 billion in goods and services have been sold over these lines in these types of calls every year. This is not to mention that U.S. phone companies also take in over $10 billion a year in revenue for the service itself.

How many disputes involving companies bidding for the same number have been filed and how have these disputes been handled?

Ambassador MCCANN. I don't have the precise number of disputes before me, but I can certainly get that for you.

[The following material was subsequently supplied for the hearing record by Ambassador McCann.]

The ITU Secretariat in Geneva advises that more than 225,000 requests for Universal International FreePhone Numbers (UIFNS) were received and processed by the ITU's Telecommunication Standardization Bureau. Of that number, 2200 were regarded as disputed, in that they involved duplicative requests. All disputed applications were examined and resolved satisfactorily, in accordance with procedures contained in the ITU-T Recommendation E-169 (i.e., the international standard) that were expressly developed for this situation. No unforeseen or unusual problems have been identified yet in the registration of international FreePhone Numbers.

Ambassador MCCANN. Disputes have been resolved, generally, by using first-come/first-serve type philosophies, so that if there is competition for a particular number, the company or Government that is first to register a request for that number is generally favored.

Senator GRAMS. Have there been a lot of disputes?

Ambassador MCCANN. There have been some, but, again, not having the number right before me, I would hesitate to characterize it as a lot.

Senator GRAMS. Is it your view that the demand for these numbers will reach a point where the ITU will have to offer even another prefix, like the "888?"

Ambassador MCCANN. Undoubtedly. I mean, it is very popular, as you know, in the United States. We have taken steps so that there is a small reprieve before more needs to be done. But I don't see the demand for these types of numbers dying down.

Senator GRAMS. As long as I don't have to go by the 5 minute rule today, I will go ahead and ask one final question, if I may, of you.

One of the major issues involving the global computer network involves disagreement over who assigns new Internet addresses. Of course, this is of particular concern to the many ISP's in my home State of Minnesota itself.

Does the ITU have a role to play in this dispute?

Ambassador MCCANN. That issue is being investigated as we speak. The ITU is preparing the release of a notice of inquiry which asks that very question: Does the ITU have a role in registering domain names.

There are members of the U.S. private sector which believe that the ITU can play a useful role in the international registration of domain names. There are many companies that argue that the ITU does not have a role in this type of service and should not be engaged.

The U.S. is in the process of developing its position on that, trying to reconcile the competing views of U.S. industry as well as U.S. agencies, Government agencies.

Senator GRAMS. What do you feel is the role, the appropriate role, for the ITU—either the State Department position or your feelings?

Ambassador MCCANN. I think it is an issue that really needs to be looked at carefully. The ITU has such tremendously important existing responsibilities that I am hesitant to expand, to take an expansive interpretation of its mission where it is not specifically warranted.

So I think we need to take a look at that and see whether or not it has the capacity to do that, what kind of effect it will have on the finances of the ITU, what financial impact it will have, and whether it will take away from the ITU's ability to carry out its primary functions.

Senator GRAMS. Thank you very much, Ambassador McCann.

Ambassador MCCANN. Thank you.

Senator GRAMS. I don't believe I have any other questions. Give me a second to check, please.

[Pause]

Senator GRAMS. All right. Again, thank you very much. Again, I would just remind you that I know other Senators, or even I, might have additional questions. I think we will keep the record open for about 3 days for those questions to be submitted in writing. Then, after that, if we could get a quick response, we would appreciate that.

Ambassador MCCANN. I commit to you that we will get back to you as promptly as we can.

Senator GRAMS. Thank you very much.

Ambassador MCCANN. Thank you.

Senator GRAMS. I would like now to call our second panel: Mr. David Fisher, Vice President, General Counsel, and Corporate Secretary for ADC Telecommunications, Incorporated, located in Minneapolis, Minnesota, and also Mr. Lon Levin, Vice President of American Mobile Satellite Corporation and President, American Mobile Radio Corporation out of Reston, Virginia.

Gentlemen, thank you very much also for taking your time to be with us here this morning for your testimony.

Mr. Fisher, we would welcome you again and would go to you first for your opening statement.

STATEMENT OF DAVID F. FISHER, VICE PRESIDENT, GENERAL COUNSEL, AND CORPORATE SECRETARY, ADC TELECOMMUNICATIONS, INCORPORATED, MINNEAPOLIS, MINNESOTA

Mr. FISHER. Thank you, Senator, and members of the committee who may read this testimony later. As I indicated, my name is David Fisher. I am a resident of Minneapolis, Minnesota, and, as

indicated, I serve as Vice President and General Counsel of ADC Telecommunications. I am here to share with you today my own thoughts regarding the International Telecommunication Union and the role it plays in our international community.

Mr. Chairman, I have submitted a copy of my remarks, as well, and I will just read excerpts of that if that is permissible.

Senator GRAMS. Your full statement will be entered into the record as if read. Go ahead, sir.

Mr. FISHER. Thank you.

As a background, I would just like to describe briefly the role of my own company in the telecommunications industry. I do not believe it is particularly unique. It may help to illustrate the significance of international affairs in this sector.

ADC Telecommunications is an equipment manufacturer based in the United States with its home offices in the State of Minnesota. It's business is to design, manufacture, and market transmission and communications systems for fiber optic and copper wireline, coaxial cable, and wireless networks.

We specifically focus on broadband technology, that is, transmitting signals at speeds of T1, that is 1 megabit per second or faster.

Our shares are publicly traded and are reported on the NASDAQ. Our revenues currently are approximately $1.1 billion annually.

ADC's international sales have grown significantly in recent years, coinciding with a new telecommunications paradigm which has swept the globe. Convergence of telephony, broadcasting, and computing is now really happening and affecting almost everyone in our daily lives.

Like businesses around the world, ADC is helping to bring about fundamental changes through the enabling power of new technologies—technologies created and developed here in the United States.

Just within the last few years, ADC has established manufacturing facilities in Australia, China, Finland and the United Kingdom. It has established new sales offices in countries throughout Asia, India, Latin America and Europe, including Central and Eastern Europe. Each of these operations is fully supported with telecommunications products and technologies manufactured by the company here in the States of California, Connecticut, Massachusetts, Minnesota, and Oregon.

In many ways, ADC personifies the modern globalization of the United States telecommunications industry.

I have been asked to describe the significance of the ITU for companies such as ADC and to the telecommunications industry as a whole.

There can be little doubt that telecommunications is one of the fastest growing industries in the world today and is a global industry in every sense. It is commonplace to acknowledge that the world is shrinking and that interdependence of nations is growing.

The ITU in that context has established an ambitious goal for itself and it did so at its last governing conference, the Kyoto Plenipotentiary of 1994. There the commitment was made to establish the ITU as the international focal point for all matters relating to

telecom in the global information economy and society of the 21st Century.

Historically, the ITU related primarily to national governments, which were the major owners and operators of telecommunications networks within their respective borders. However, this is changing. Convergence, spurred by technological change, has opened a worldwide debate concerning the appropriate means to meet growing demand for information and communication. As a consequence, privatization and reorganization of telecommunications networks are accelerating around the world.

These changes have caused the ITU to change its regard for private sector organizations, such as ADC, and to redefine its coordinating role in the international arena.

The ITU, in other words, has opened its doors to participation by the private sector in ways it had never previously.

At the Kyoto Plenipotentiary, it established a review committee which is to recommend how the rights and obligations of the private sector ought to grow within the organization, and that review should be considered at the next plenipotentiary to be held in Minneapolis, Minnesota in the fall of 1998.

This is important because, Senator, as you indicated in your opening remarks, the United States is indisputably the world leader in telecommunications technology, innovation and development. At the same time, communications networks have become quite literally an essential strategic resource in most countries of the world, on a par with labor and capital in making a real difference in peoples' lives. The global information infrastructure is a necessary part of growth in every economic sector. It represents a tremendous responsibility for Government as well as for industry.

The ITU plays a significant role in assuming responsibility for global technical standardization, for defining standards for interoperability and interconnection of network systems, and establishing revenue sharing principles among nations. Participants in this industry must comply with standards developed by the ITU. In short, without the ITU, ADC and other U.S. equipment manufacturers would have a difficult time delivering products which could compete in the international marketplace.

Another key role undertaken by the ITU, in addition to this coordinating function on equipment and transmission standards, is establishing international agreements on the allocation of radio spectrum through its World Radio Conferences. Governments for years have worked together in an effort to manage radio spectrum. Radio signals, of course, do not respect political boundaries and, for this reason, Governments have had to work together to assure there is minimal interference in signaling. Conflicts arise all the time.

For instance, the United States and Mexico currently differ with respect to licensing of the 3.7 gHz spectrum. The United States, invoking its own domestic standards, has licensed the spectrum for private military use, while Mexico, applying ITU standards, has designated the spectrum for private commercial use. A common standard would prevent such conflicts between Governments and that is a fundamental role of the ITU.

I am going to just make a few comments, Mr. Chairman, regarding the 1998 Plenipotentiary. I have been asked to comment on the plenipotentiary conference of the ITU. This is going to be hosted by the United States in the fall of 1998 and it is to be held in Minneapolis. It will hereafter be regarded as the Minneapolis Plenipotentiary.

On behalf of ADC and my own home community, I have been actively involved in planning for the Minneapolis Plenipotentiary.

As you know, the ITU is an inter-governmental organization, operating under auspices of the United Nations. It represents 187 member nations, from the developing to the fully industrialized, including the United States—hopefully with a vote.

Its plenipotentiary conference is the highest decisionmaking body of ITU member nations and is held once every 4 years in a different host country. This is the first time the plenipotentiary has been held in the United States in 50 years—in fact, the first time in modern telecommunications history that it has been held in the United States.

The plenipotentiary itself is a government-to-government conference at which the various nations of the world, represented by elected delegates, meet for a full month to consider and decide upon issues of telecommunications administration, financing, network systems, services, uniform equipment and transmission standards.

The delegates are telecommunications ministers, high level government officials, and industry advisors serving at the request of their respective governments.

The Minneapolis Plenipotentiary is significant, and not merely because it is being held in the U.S. In the words used by the Department of State in a letter to Congress earlier this year, "Decisions are made at this conference which could impact America's global competitiveness in telecommunications. Hosting this important conference in the United States highlights U.S. leadership in this critical sector and will allow U.S. technology to be showcased."

The U.S. telecommunications industry supports the invitation of the United States to host the ITU plenipotentiary conference and we are not taking steps to show our support by assisting in that planning. An ITU Host Committee has been established, headquartered in Minneapolis with assistance from a private sector organization here in Washington and now is making efforts to include participation from both Government and industry on a wider scale.

It also is playing a significant role in supporting the planning efforts of the Departments of State and Commerce, which are officially hosting the Minneapolis Plenipotentiary.

For its part, the U.S telecommunications industry already has pledged to raise up to $5 million to cover plenipotentiary expenses. These are basically host and hospitality expenses. We are arranging for volunteers. We are sponsoring hospitality activity. We are hosting official receptions and we hope to put up a historical exhibit, demonstrating American telephony and technology.

The private sector role clearly is one of ancillary support for U.S. Government agencies with respect to the assembly or business sec-

tions of the Minneapolis Plenipotentiary and in helping them to assure effectiveness and efficiency.

Now we have been engaged earlier this spring on funding for the U.S. plenipotentiary. I will just make a comment on that, Mr. Chairman.

We had originally thought that approximately $21 million would be needed for both the business sections of the conference and for host or hospitality activities. Of this total, approximately $14 million was to be funded by the U.S. Government.

The State Department and the Commerce Department had the full $14 million in their budgets originally, and when it came before Congress, that budget was deleted altogether. The State Department, I hope with the support, the proper support, of the host committee have convinced Congress to reinstate a certain portion of those funds—approximately $7.5 million, $3 million of which have already been allocated, $4.5 million of which will be coming up in this budget cycle. But it is still far short of the $14 million originally thought to be necessary for those business sections of the plenipotentiary.

The Department of State has revised now its needed budget. We believe that a minimum of $11 million to $12 million is required to adequately cover expenses of the plenary portion of the Minneapolis Plenipotentiary, and we believe, frankly, that we may have some real challenges trying to raise the additional $4 million to $5 million to cover the gap at this point.

Meanwhile, the ITU Host Committee has been successful in securing pledges from private industry of up to $4.5 million to fund nonplenary or host committee activities of the Minneapolis Plenipotentiary. We are all determined to work within the budget established for the Minneapolis Plenipot and to make this conference a true success and a showcase for U.S. ingenuity in the field of telecommunications.

Mr. Chairman, on behalf of ADC Telecommunications and the ITU Host Committee, I commend the U.S. Senate today for considering the significance of telecommunications in the world and the role played in promoting telecommunications throughout the world by the ITU.

Thank you very much.

[The prepared statement of Mr. David F. Fisher follows:]

PREPARED STATEMENT OF DAVID F. FISHER

INTERNATIONAL TELECOMMUNICATIONS UNION

CONSTITUTION AND CONVENTION RATIFICATION

Mr. Chair, Members of the Committee: Good Morning. My name is David Fisher. I am a resident of Minneapolis, Minnesota, and serve as Vice President and General Counsel of ADC Telecommunications, Inc. I am pleased to share with you today my thoughts concerning the International Telecommunications Union and the role it plays in our industry.

I. INTRODUCTION: ADC TELECOMMUNICATIONS

As background, permit me first to describe the role of my own company in the telecommunications industry. It is not likely to be unique, but may help to illustrate the significance of international affairs in this sector.

ADC Telecommunications is an equipment manufacturer based in the United States, with its home offices in the State of Minnesota. Its business is to design,

manufacture and market transmission and communication systems for fiber optic and copper wireline, coaxial cable, and wireless networks. ADC's specific focus is on broadband technology, transmitting signals at speeds of TI (that is, 1 megabit per second) or faster.

ADC's products are used by telephone companies, broadcast and cable television operators, and private network providers through such systems as local area networks, or "LAN" systems. ADC shares are publicly traded, and are reported on the NASDAQ. Its revenues currently are approximately $1.1 billion annually. ADC's international sales have grown significantly in recent years, coinciding with a new telecommunications paradigm which has swept the globe. Convergence of telephony, broadcasting and computing is now really happening, and affecting almost everyone in their daily lives. Like businesses around the World, ADC is helping to bring about fundamental change through the enabling power of new technologies -- technologies created and developed here in the United States. Just within the last few years, ADC has established manufacturing facilities in Australia, China, Finland and the United Kingdom. It has established new sales offices in countries throughout Asia, India, Latin America, and Europe, including Central and Eastern Europe. Each of these operations is fully supported by telecommunications products and technologies manufactured by the company here, in the States of California, Connecticut, Massachusetts, Minnesota, and Oregon. In many ways, ADC personifies the modem globalization of the United States telecommunications industry.

II. SIGNIFICANCE OF THE ITU

I have been asked to describe the significance of the ITU to U.S. companies such as ADC, and to the telecommunications industry as a whole.

There can be little doubt that telecommunications is one of the fastest growing industries in the World today, and is a global industry in every sense. It is commonplace to acknowledge that the World is shrinking and that the interdependence of nations is growing.

A. ITU'S NEW GOVERNANCE

The ITU established an ambitious goal for itself at its last governing conference, the Kyoto Plenipotentiary of 1994. There the commitment was made "to establish the ITU as the international focal point for all matters relating to telecom in the global information economy and society of the twenty-first century."

Historically, the ITU related primarily to national governments, which were the major owners and operators of telecommunications networks within their respective borders. However, this is changing. Convergence spurred by technological change has opened a worldwide debate concerning the appropriate means to meet growing demand for information and communication. As a consequence, privatization and reorganization of telecommunications networks are accelerating around the World. These changes have caused the ITU to change its regard for private sector organizations, such as ADC, and to redefine its coordinating role in the international arena.

The ITU has opened its doors to participation by the private sector in ways it never had previously. At the Kyoto Plenipotentiary, for instance, the ITU established a Review Committee to recommend how the rights and obligations of the private sector ought to grow within the organization. This report should be ready for presentation to the ITU's next Plenipotentiary, to be held in Minneapolis, Minnesota, in the Fall of 1998.

This is important, because today the United States is a net exporter of telecommunications equipment, in the midst of a trend which is on the rise. There is good reason for this. The United States is the indisputable World leader in telecommunications technological innovation and development. At the same time, communications networks have become quite literally an essential strategic resource in most countries of the World, on a par with labor and capital in making a real difference in peoples' lives. The global information infrastructure is a necessary part of growth in every economic sector. It represents a tremendous responsibility for government, as well as for industry.

B. ITU STANDARDS SETTING

In this context, the ITU undeniably plays a significant role in assuming responsibility for global technical standardization, for defining standards for interoperability and interconnection of network systems, and establishing revenue sharing principles among nations. Participants in this industry must comply with standards developed by the ITU. In short, without the ITU ADC and other U.S. equipment

manufacturers would have a difficult time delivering products which could compete in the international marketplace.

For companies such as ADC, this has not always been the case. Throughout much of telecommunications history in the United States, domestic equipment suppliers have served the domestic market almost exclusively. In effect, until recently we have been occupied or "captive" within the domestic market, meeting demands of universal service and government regulation. Indeed, the United States telecommunications industry has developed its own standards for transmission and equipment manufacture, commonly referred to as the μ law, developed by Bellcore, a telephone company standards setting body. Essentially, the μ law sets the standard for domestic United States telecommunications. These standards are important, for they determine the type of equipment, signaling and switching which must be used by equipment manufacturers and carriers in order to interconnect with one another. They are fundamental to the linkage of our United States communications system.

The rest of the World has gone its own way.

Outside the United States, the most commonly used, and the most influential, set of standards are those established by the ITU, and are known as "A" law standards. While the difference between μ law and A law may be subtle in many cases, they can be significant in others. The differences are great enough that transmissions from the United States to a foreign country today likely will have to pass through transcoders for the purpose of converting from the μ law standard to an A law standard. In other words, United States telecommunications systems are not wholly compatible with those in the rest of the World.

Although in key respects, this dual-standard system may seem to favor equipment manufacturers, it is not consistent with the inevitable globalization of the United. States telecommunications industry.

C. ITU INTERNATIONAL AGREEMENTS

A second key role undertaken by the ITU, in addition to coordinating equipment and transmission standards, is establishing international agreements on the allocation of radio spectrum, through its World Radiocommunications Conferences. Governments for years have worked together in an effort to manage radio spectrum. Radio signals, of course, do not respect political boundaries and for this reason governments have had to work together to assure there is minimal interference in signaling. Conflicts arise all the time. For instance, the United States and Mexico currently differ with respect to licensing of the 3.7 gHz spectrum. The United States, invoking μ law, has licensed the spectrum for private military use, while Mexico, applying A law, has designated the spectrum for private commercial use. A common standard would prevent such conflicts between governments.

D. ITU COOPERATIVE EFFORTS

A third role undertaken by the ITU is to provide methods for the cooperation of telecommunications common carriers in providing international telecommunications services. This includes matters such as the method of handing off telephone calls between international carriers, the billing of international calls, and other key aspects of cooperation.

E. EXCHANGE OF TECHNOLOGY

Lastly, the ITU provides a vehicle for the global exchange of telecommunications technology, through the Telecom Information Exchange Services ("TIES"). As the telecommunications industry continues to de-regulate around the World, the new technologies are all based on global standards. They will be based on ITU standards. The organizations, be they public or private, which can influence these standards are the organizations most likely to be strongest participants in World telecommunications. The United States cannot afford to bypass the opportunity to assert its rightful role as the World leader in telecommunications by ignoring participation in the ITU standards setting bodies.

If the ITU is supported by all nations, and is functioning as it is intended, it will provide a more level playing field for all industry participants to compete in a global marketplace, regardless of the location of their home office or manufacturing facilities.

III. ITU 1998 PLENIPOTENTIARY

I have been asked to comment on the Plenipotentiary Conference of the ITU to be hosted by the United States in the Fall of 1998. This conference will be held in Minneapolis, Minnesota, and will in the future be regarded as the "Minneapolis Plenipotentiary". On behalf of ADC, I have been actively involved in its planning.

A. BACKGROUND

As you know, the ITU is an inter-governmental organization operating under auspices of the United Nations. It represents more than 186 member nations, from the developing to the fully industrialized, including the United States. Its Plenipotentiary Conference is the highest decision-making body of ITU member nations, and is held once every four years in a different host country. This is the first time the Plenipotentiary has been held in the United States in fifty years.

The Plenipotentiary is a government-to-government conference, at which the various nations of the World, represented by elected delegates, meet for a full-month to consider and decide upon issues of telecommunications administration, financing, network systems, services, and uniform equipment and transmission standards. The delegates are telecommunications ministers, high-level government officials, and industry advisers serving at the request of their respective Governments.

The Minneapolis Plenipotentiary is significant, and not merely because it is being held in the United States for the first time in modem telecommunications history. In the words used by the Department of State in a letter to Congress earlier this year, "[d]ecisions are made at this conference which could impact America's global competitiveness in telecommunications. Hosting this important conference in the United States highlights U.S. leadership in this critical sector, and will allow U.S. technology to be showcased."

In 1994, the United States Congress and Administration initiated an invitation to the ITU to host the Plenipotentiary in 1998, and the invitation was accepted. This is an important step. At a time when U.S. telecommunications ingenuity is leading the way in technological advancement, it is clearly time for us to take our rightful place as a trend-setter and decision maker in World telecommunications policy and implementation. To date, the United States has not been the leader it might be, or the leader indicated by its technological superiority.

B. PRIVATE SECTOR ROLE

The U.S. telecommunications industry supports the invitation of the United States to host the ITU Plenipotentiary Conference, and is taking steps now to show its support by assisting in its planning. An ITU Host Committee has been established, headquartered in Minneapolis, and now is making efforts to include participation from both Government and industry. It also is playing a significant role in supporting the panning efforts of the Departments of State and Commerce, which are officially hosting the Minneapolis Plenipotentiary.

For its part, the United States telecommunications industry already has pledged to

- raise up to $5 million to cover Plenipotentiary expenses,
- arrange for Volunteers and resources to assure warm hospitality for foreign dignitaries,
- sponsor entertainment and weekend excursions to "see America",
- host official U.S. and State receptions,
- advise on conference preparations, and
- host an historical exhibit on American telephony and technology.

The private sector role clearly is one of ancillary support for United States Government agencies with respect to the business sections of the Minneapolis Plenipotentiary, and in helping them to ensure its effectiveness and efficiency.

C. FUNDING AND BUDGET

When the United States first indicated an interest in hosting the 1998 Plenipotentiary, it was thought that a total of approximately $21 minion would be needed for both the business sections of the conference and for host or hospitality activities. Of this total, approximately $14 million was to funded by the United States Government for such expenses as refurbishing the Minneapolis Convention Center to provide lighting, audio/data wiring, and furnishings, as well as for international transportation and housing for ITU staff and the United States delegation, simultaneous translation in the six official languages of the ITU, and the equipment necessary to assure proper international communications. These funds would have been ear-

marked to meet needs. of the official assembly, or plenary-portions of the Plenipotentiary. The private sector was to raise approximately $7.0 million in separate funding for the hospitality and other logistics of the conference. This comprised the total $21 million thought to be required.

For the convenience of the Committee, I have attached a rough exhibit to these remarks indicating the expenses anticipated for the Minneapolis Plenipotentiary, as well as a rough allocation of funding dollars.

Initial requests for funding for the Minneapolis Plenipotentiary came before Congress in 1996, in the budgets of the Departments of State and Commerce. At that time, funding for the Plenipotentiary was deleted from the budget altogether. Following some effort by the Department of State, as well as by the ITU Host Committee, Congress now has agreed to permit reprogramming for the purpose of restoring $3.0 million as preliminary funding, and has indicated that another $4.5 million for the Plenipotentiary plenary session preparations will be considered. A total United States funding of $7.5 million therefore is anticipated by the ITU Host Committee.

Meanwhile, the Departments of State and Commerce and the ITU Host Committee have cut budget estimates for the Minneapolis Plenipotentiary significantly, to remain within the anticipated funding. The ITU Host Committee, however, believes that a minimum of $16 million to $17 million is required to adequately cover expenses of the Minneapolis Plenipotentiary, including approximately $11 million to $12 million for the plenary portion. This would indicate a shortfall in the anticipated funding of approximately $4.6 million.

The ITU Host Committee has been successful in securing pledges from private industry of up to $4.5 million to fund non-plenary, or Host Committee, activities of the Minneapolis Plenipotentiary. There is a serious question whether additional private funding can be secured.

The ITU Host Committee is determined to work within the budget established for the Minneapolis Plenipotentiary, and to make this conference a true success and a showcase for United States ingenuity in the field of telecommunications.

IV. CONCLUSION

On behalf of ADC Telecommunications, Inc., and the ITU Host Committee for the 1998 Minneapolis Plenipotentiary, I commend the United States Senate today for considering the significance of telecommunications in the World, and the role played in promoting telecommunications throughout the World by the International Telecommunications Union. The ITU has come to recognize, as has the telecommunications industry itself, the need to change, to redefine itself, in order to meet new technological challenges and demands for greater communication and access to information. This can only be accomplished across international boundaries, with the assistance, guidance and sanction of the World's governments. We urge the United States to assume its rightful position as the leader in telecommunications technology, and to help shape the standards and policies which will guide our future.

TESTIMONY EXHIBIT -- 1998 FUNDING/BUDGET

U.S. Government: Costs of holding conference away from ITU headquarters in Geneva --

- create conference setting -- lighting, audio/data wiring, furnishings (desks, lamps) ($2.5 million)
- international transportation and housing for ITU staff ($2.5 million)
- U.S. delegation and Department expenses ($2.5 million)
- credentialing of delegates
- simultaneous translation (six official languages) -- hard-wired/infra-red headsets, booths
- computer LAN'S, facsimile's, equipment
- telecommunications links between Minneapolis-Washington-Geneva
- newsletters, official mailings and related supplies
- security

City of Minneapolis has pledged:

- lease charges for use of the Convention Center
- $250,000 in transportation costs
- service as hotel booking agent

State of Minnesota has pledged $500,000

*Private Sector has pledged (***$4.5 million - $5 million***)*:

- up to $5 million to cover non-business Plenipotentiary expenses

- volunteers and resources to assure a warm welcome and comfortable stay for foreign dignitaries
- sponsorship of entertainment and weekend excursions to "see America"
- hosting official U.S. and State receptions
- advising on the conference preparations
- hosting an historic exhibit on American telephony and technology

Potential funding shortfall currently estimated at **$4.5 million.**

ITU HOST COMMITTEE
1998 MINNEAPOLIS PLENIPOTENTIARY
BUDGET/FUNDING SUMMARY
(Millions)

1. BUDGETS

Source	Initial Budget	Revised Minimum Budget	
		Cash	In-Kind
U.S. Government	$14.0	$11.33	$0.62
ITU Host Committee	$6.46	$2.78	$2.23
Sub-Totals	$20.56	$14.11	$2.85
Totals	$20.56	$16.96	

II. FUNDING

Source	Current
U.S. Government	$7.50
State of Minnesota	$0.50
Private Sponsorships	$4.35
Total	$12.35

III. SUMMARY

Current Operating Budgets (All Requirements)	($16.96)
Funding Sources	$12.35
Budget Surplus or (Deficit)	($4.61)

THE HISTORY OF ADC

The story of ADC Telecommunications begins in 1935 the height of the great depression -- when a young engineer, Ralph Allison, founded Audio Development Company (ADC) in the basement of his south Minneapolis home. The company got its start with a new innovation called the audiometer, an electronic device designed to test hearing.

In 1937, Allison was joined by a fellow engineer, Walt Lehnert, and together, they diversified the company's product line to include amplifiers and transformers for the broadcast industry. In 1942, the company designed a sophisticated audio system for the University of Minnesota. The resulting jacks, plugs, patch cords and jackfields became the cornerstones for ADC's later entry into telecommunications.

In 1949, ADC sold its audiometer product line. Throughout the post-war boom years, ADC focused its efforts on transformers and electronic equipment for the military. And, in 1961, ADC merged with Magnetic Controls Company, a manufacturer of power supplies and magnetic amplifiers with strong ties to the U.S. Space Program.

The resulting company, ADC Magnetic Controls, had a decade of mixed success. Although transformer sales boomed during the early 1960's, profit margins were poor, and when the volume began to drop off late in the decade, the company began a downward spiral. In 1970, Chuck Denny joined as President.

Under Denny's leadership, jack and plug sales grew steadily through the 1970's and ADC diversified its product mix with pre-wired connectorized jackfields, wired assemblies and test equipment for telephone operating companies. By 1974, the company was on solid ground. And, by 1976, ADC had become the largest independent supplier of test boards in the U.S., and set its sights on becoming the world leader in jack and plug sales.

The deregulation of AT&T, ordered by the federal government in 1983, created a golden opportunity for ADC. By establishing the seven regional Bell operating companies (RBOC's) as independent entities, the U.S. market for telecommunications expanded by 90 percent. No longer forced to purchase their equipment from the Western Electric Division of AT&T, the RBOC's began to look for suppliers like ADC that had a reputation for quality and innovation in the marketplace. Over time, the RBOC's would become ADC's key customer base.

Growing success in the telecommunications market and declining sales in transformers resulted in the 1984 decision to sell the magnetics business. This decision was highlighted when the company changed its name from ADC Magnetic Controls to ADC Telecommunications. Throughout the 1980's, ADC capitalized on the shift in technology from analog to digital, becoming the industry leader in digital signal cross connect devices.

During the 1 990's, ADC has sought and will continue to seek alliances and acquisitions. This growth strategy allows ADC to more quickly add key technologies; broaden its product offerings; enter attractive new markets, and expand/enhance distribution channels.

As a result of our growing and diversifying business, in 1995, ADC developed a more divisionalized approach. Shown below is an overview of our current structure.

Broadband Connectivity Group (BCG)

Broadband Connectivity Group - Designs and manufactures products which provide the physical contact points for connecting different telecommunications systems components. BCG also designs and manufactures products for access to telecommunications system circuits for the purpose of installing, testing, monitoring or reconfiguring circuits. BCG Minnesota has several locations -- Minneapolis, Shakopee and LeSueur.

AOFR - Manufacturer of fiber optic couplers and components. Based in Canberra, Australia. Solitra - Designs, manufacturers and markets radio frequency filers and other wireless base station equipment components and subsystems. Located in Kempele and Ruukki, Finland and Hutchinson, Minnesota.

Broadband Communications Division (BCD)

BCD - Minnesota - Deliver flexible transmission solutions to service providers - voice, video and data transmission.

BCD - AVS Connecticut - Designs, manufacturers, and markets fiber optic video transmission equipment for the telephone, cable television, broadcast and government markets.

ADC Shanghai - 20-year joint venture with Shanghai Posts & Telecommunications Equipment. Licensed to manufacture and market ADC video systems fiber-optic transmission systems.

Nanjing ADC Broadband Communications Co. Ltd - markets ADC's Homeworx platform to provide telephony and data services throughout the country. ADC and Panda are the joint venture holders.

Network Services Division (NSD)

NSD provides loop access and transport systems to carriers for delivery of high-capacity and other high-bandwidth services to business end-users. NSD is located in Richardson, Texas.

Wireless Systems Group

Mobile Systems Division

Metrica Systems - Software design firm specializing in applications based network performance management tools for global wireless and, increasingly, wireline networks. Headquartered in London, England.

Wireless Microsystems Division - Provides RF coverage solutions for PCS and cellular networks. Located in Portland, Oregon and Waseca, Minnesota.

ITS Corporation

Manufacturer of television transmission equipment for the broadcast and microwave transmission markets, located in McMurray, Pennsylvania.

Enterprise Networking Group (ENG)

ENG - Kentrox - Manufacturer of public network service access equipment for private telecommunications networks, located in Portland, Oregon.

Skyline - Designs and manufactures ISDN/Frame Relay access products with routing capabilities. Located in California.

Systems Integration Group (SIG)

Systems Integration offers a spectrum of services including: technical consulting and design services; implementation services, reliability services; performance services and training. This segment of SIG is primarily located in Chanhassen, Minnesota.

Da Tel Fibernet, Inc. is an engineering and installation company focuses on servicing the telecommunications industry. Located in Georgia.

The Apex Group - Software development and information management company located in Columbia, Maryland.

International

Many of the business units have international components within their units. ADC also has international sales offices and manufacturing facilities located in various countries, such as: Canada, Mexico, Venezuela, the United Kingdom, Belgium, Germany, Finalnd, Australia, Singapore, Argentina, Malaysia, Korea, India, and China.

Corporate

This group provides services to ADC as a whole and organizes some of the core functions of ADC's daily business - Legal, Facilities, Information Services, Business Development, Finance, Treasury, Human Resources, Marketing Communications, Customer Service, and Payroll.

Entering the 1990's, ADC focused on meeting the needs of its customers in the public, private and government markets with a broad range of network management products and services designed for broadcast data and telecommunications networks. With a strong emphasis on fiber optic and high speed transmission systems, ADC is poised for the future with financial strength, superior resources and a vision that will ensure success.

Entering the 21st century, ADC is helping define the future of telecommunications, both notionally and globally. Magnificent changes are on the horizon - changes in the way we do everyday things. ADC will play a key role in these changes and you have a stake in achieving these exciting goals. Our combined efforts and teamwork are critical to future successes which should be very exciting!

Senator GRAMS. Thank you very much, Mr. Fisher. Mr. Levin.

STATEMENT OF LON C. LEVIN, VICE PRESIDENT, AMERICAN MOBILE SATELLITE CORPORATION AND PRESIDENT, AMERICAN MOBILE RADIO CORPORATION, RESTON, VIRGINIA

Mr. LEVIN. Thank you, Mr. Chairman. Good morning.

My name is Lon Levin. I am here in support of ratification of the Constitution and Convention of the International Telecommunication Union signed at the 1992 Additional Plenipotentiary Conference held in Geneva and amended at the 1994 Plenipotentiary Conference held in Kyoto.

Ratification of the Constitution and Convention will enable the United States to participate fully at the ITU, which I believe is in our country's best interest.

I am President of American Mobile Radio Corporation, one of two winning bidders to offer digital audio radio service via satellite in the United States. I am also Vice President of the parent corporation, American Mobile Satellite Corporation, a relatively new sat-

ellite company that is today providing a full array of two-way voice and data mobile satellite services throughout the United States.

I speak for myself and on behalf of those two companies.

In my work in the satellite industry for roughly the past 12 years, I have been active in the private sector's involvement with the ITU, helping with the United States preparation for ITU conferences and frequently serving as a member of the U.S. delegation—positions that I consider to be among the highest honors of my professional life.

I was a member of the U.S. delegation to the 1992 Geneva Additional Plenipotentiary Conference, or APP for short, and the 1994 Kyoto Plenipotentiary Conference, or Kyoto Plenipot.

I believe that, as a general matter, particularly in the timeframe in which I have been involved, the ITU has played a very positive role for United States telecommunications companies, particularly those that operate in the international environment. The ITU provides an international forum for the resolution of key global telecommunications issues. For the most part, decisions are hammered out by consensus, even though there are strong disagreements and lengthy negotiations. Member States are comfortable that the ITU protects their sovereign rights.

In recent years, the private sector has been playing an increasingly important role. This involvement by the private sector in conference preparation and actual service on delegations distinguishes the ITU from many other international organizations and I believe contributes to its effectiveness.

For the satellite industry, which is a $23 billion a year industry and a U.S. success story, the ITU plays a critical role, providing the only international forum for countries to agree on frequency allocations and operational procedures that permit the launch and operation of regional and global systems.

All satellites are inherently international due to the size of their coverage areas. Thus, regional and international consensus on frequency allocations, orbit locations, and regulatory provisions are the lifeblood of satellite communications.

The ITU also provides a critical function as an international clearinghouse for information on proposed spectrum uses. This permits administrations to negotiate with new users on behalf of existing spectrum users that are potentially affected by the proposed new operations.

In most cases, this is a highly efficient and cost effective way to resolve potential interference problems before they occur. The private sector is the direct beneficiary.

There are risks with any international entity, particularly one that operates on a principal of one nation/one vote. There are also legitimate concerns regarding the efficiency of any international bureaucracy. The United States does not always get what it wants.

But my experience has been that the risks and concerns pale in comparison to the benefits derived by the United States and its telecommunications industry participating at the ITU.

All of these general comments apply specifically to the Constitution and Convention that is the subject of this hearing. The changes made in the 1992 Constitution and Convention have resulted in an ITU that is more responsive to the rapid changes in

telecommunications. Dividing the ITU into three sectors—development, radio communication, and telecommunication, has effectively separated the work on specific issues that concern the developing world, which tends to be more political in nature, from the more technical and operational matters of the other two sectors.

This significant innovation is the scheduling of world radio communication conferences every 2 years, instead of on an ad hoc basis. This provides a routine mechanism for the world to deal quickly with radio communication matters. In addition, the APP eliminated the highly politicized International Frequency Registration Board and replaced it with the more spectrum-administration-oriented Radio Regulations Board.

The 1994 Kyoto Plenipot had its share of initiatives that favor U.S. interests. Besides ratifying virtually all of the new Constitution and Convention developed at the 1992 Conference, the Kyoto Plenipot adopted a 5 year strategic plan that included virtually all U.S. modifications. It also set an ITU budget that is well within acceptable bounds from the U.S. perspective.

I understand that ratification of the ITU Constitution and Convention is required for the United States to be permitted to vote at the upcoming WRC–97. The U.S. must have a voice at this year's conference and must be a leader. There are several matters on the conference agenda in which the United States is the proponent or has a substantial interest. Not being able to vote will certainly put us in an awkward position and a less effective position.

In conclusion, the ITU in general and the final results of the Geneva APP and the Kyoto Plenipot in particular should be considered successes for the United States, and as we look toward the future, we can be confident that those successes will continue.

Thank you and I will take any questions that you may have.

[The prepared statement of Mr. Lon C. Levin follows:]

PREPARED STATEMENT OF LON C. LEVIN

Good morning. My name is Lon Levin. I am here in support of ratification of the Constitution and Convention of the International Telecommunication Union (ITU), with annexes, signed at Geneva on December 22, 1992, and the amendments to the Constitution and Convention signed at Kyoto on October 14, 1994, together with declarations and reservations by the United States as contained in the Final Acts. Ratification of the Constitution and Convention will enable the United States to participate fully at the ITU, which I believe is in our country's best interest.

I am President of American Mobile Radio Corporation (AMRC), one of two winning bidders to offer Digital Audio service via satellite in the United States. AMRC plans to launch its satellites and begin operations by 2000. I am also Vice President of the parent corporation, American Mobile Satellite Corporation (AMSC), a relatively new satellite company that is today providing a full array of two-way voice and data mobile satellite services throughout the United States. I speak for myself and on behalf of both companies.

In my work in the satellite industry for roughly the past twelve years, I have been active in the private sector's involvement with the ITU, helping with the United States preparation for ITU conferences and frequently serving as a member of the U.S. delegation--positions that I consider to be among the highest honors of my professional life. I was a member of the U.S. delegation to the Geneva Additional Plenipotentiary Conference (APP) in 1992 and the Kyoto Plenipotentiary Conference in 1994. Because my career has been in the satellite industry, my focus has been on the Radiocommunication Sector of the ITU and the World Radiocommunication Conferences (WRC), which review and revise the international table of frequency allocations and develop technical and operational regulations and recommendations. I served in international leadership positions at the ITU's 1992 World Administrative Radio Conference (WARC-92) and at the 1995 World Radiocommunication Con-

ference (WRC-95). At WARC-92, I was the international conference chairperson of the Mobile Satellite Service Committee. At WRC-95, I was the international conference chairperson of the committee dealing with services in spectrum below 1 GHz. Most recently, I have been serving as the Vice Chairperson of the Industry Advisory Committee preparing for the 1997 World Radiocommunication Conference (WRC-97) that begins this October in Geneva.

I believe that, as a general matter and particularly in the time frame in which I have been involved, the ITU, with its 185 member states, has played a very positive role for U.S. telecommunications companies that must deal with the inherent difficulties of operating in an international environment. The ITU describes itself accurately as "an international organization within which governments and the private sector coordinate global telecom networks and services." The ITU provides an international forum, with regular conferences that provide a focal point for the resolution of key telecommunications issues. For the most part, decisions are hammered out by consensus, even though there are strong disagreements and lengthy negotiations. Member states are comfortable that the ITU protects their sovereign rights.

In recent years the private sector has been playing an increasingly important role. This involvement by the private sector in conference preparation and actual service on delegations distinguishes the ITU from many other international organizations and I believe contributes to its effectiveness.

For the satellite industry, which is a $23 billion a year industry and a U.S. success story, the ITU plays a critical role, providing the only international forum for countries to agree on frequency allocations and operational procedures that permit the launch and operation of regional and global systems. Virtually all satellites are inherently international, due to the size of their coverage areas. Thus, regional and international consensus on frequency allocations, orbit locations, and regulatory provisions is the lifeblood of satellite communications. Decisions by past ITU conferences paved the way for, among others, the development of Direct Broadcast satellites, the Low Earth Orbit (LEO) mobile satellite systems, Digital Audio Radio Satellites, and the newly proposed high-speed data satellites.

The ITU also provides a critical function as an international clearinghouse for information on proposed spectrum uses. This permits administrations to negotiate with new users on behalf of existing users that are potentially affected by the proposed new operations. In most cases, this is a highly efficient and cost effective way to resolve potential problems before they occur. The private sector is the direct beneficiary,

There are risks with any international entity, particularly one that operates on a principle of one nation-one vote. The U.S. does not always get what it wants. There are also legitimate concerns with the efficiency of any international bureaucracy. But my experience has been that those risks and concerns in practice pale in comparison to the benefits derived by the U.S. and the telecommunications industry.

All of these general comments apply specifically to the Constitution and Convention that is the subject of this hearing. The changes made in 1992 to the Constitution and Convention have resulted in an ITU that is more responsive to the rapid changes in telecommunications. Dividing the ITU into three sectors--Development, Radiocommunication, and Telecommunication--has effectively separated the work on specific issues that concern the developing world from the more general technical and operational matters of the other two sectors. Another significant innovation is the scheduling of World Radiocommunication Conferences every two years, instead of on an ad hoc basis. This provides a routine mechanism for the world to deal quickly with radiocommunication matters. In addition, the new Constitution and Convention replaced the highly politicized international Frequency Registration Board with a more spectrum- administration-oriented Radio Regulations Board.

Besides ratifying virtually all of the new Convention and Constitution developed at the 1992 Conference, the 1994 Kyoto Plenipot had its share of initiatives that favor U.S. interests. The Kyoto Plenipot adopted a five year strategic plan that included all U.S. modifications. It set an ITU budget that is well within acceptable bounds from the U.S. perspective. And, although a U.S. candidate was not elected to head the Radiocommunication Sector, the Plenipot selected Robert Jones of Canada, who was clearly qualified and has proven to be an excellent administrator.

The United States was also concerned in Kyoto with an effort by other countries to establish a Policy Forum to discuss global satellite systems. There was concern that such a forum might slow the development of U.S. systems. But, as it turned out, the Policy Forum, held a year ago in Geneva, provided a useful mechanism for administrations to learn more about global systems and to become more comfortable that such systems will benefit their citizens while leaving their sovereignty intact. This process was facilitated by permitting the private sector to send its own delegates as company representatives that were separate from national delegations.

The Kyoto Plenipot also adopted a provision known as Resolution 18, dealing with the regulation and administration of satellites. Resolution 18 raises legitimate issues and I am optimistic that further progress can be made on these issues at WRC-97 and the 1998 Plenipotentiary Conference.

I understand that ratification of the ITU Constitution and Convention is required for the U.S. delegation to be permitted to vote at the upcoming ARC-97. The U.S. must have a voice at this year's Conference and must be a leader. There are several matters on the Conference agenda, including mobile satellite, direct broadcast satellite, and high speed data satellite services, regarding which the United States is the proponent or has a substantial interest. Not being able to vote will certainly put us in an awkward and less effective position.

In conclusion, the ITU in general and the final results of the Geneva APP and the Kyoto Plenipot in particular should be considered successes for the United States. And, as we look to the future, we can be confident that those successes will continue.

Thank you.

Senator GRAMS. Thank you very much, Mr. Levin. I just have general questions for both of you. So I would appreciate it if you would both answer in any detail you can.

First, the Secretary General of the ITU is required to issue a strategic plan indicating changes in the telecommunications industry and also containing recommended action that is related to the union's future policies and strategy.

In relation to that plan, to what degree was industry's involvement in helping to formulate the strategic plan?

Mr. Fisher?

Mr. FISHER. Well, Mr. Chairman, I have not personally been involved in that process. I am probably not the best qualified. I know that ADC and other industry representatives have certainly been involved in the three sectors of the ITU. We have been encouraged, certainly since the Kyoto Plenipotentiary to participate fully in the strategic plan. But I'm afraid I cannot specify exactly what those strategies are.

Senator GRAMS. But do you feel it is important that the private sector was involved?

Mr. FISHER. Clearly, I do. We want to encourage the ITU to keep its doors open, as it has thrown them open, frankly, to this date to have the private sector more involved in this process. As I have said, in the past I think the private sector community has been captured by Government regulation and, frankly, in the new era of deregulation and increased competition, we certainly want a voice. It may sound like a cacophony sometimes, but we do want a voice in helping to shape those policies worldwide.

Senator GRAMS. Mr. Levin.

Mr. LEVIN. Just to quickly respond, the private sector, because they tend to be vocal and because they tend to believe that the ITU is critical to their own successes, makes sure that their voice is heard, and the U.S. Government is always helpful in making sure that the voice is heard. I am comfortable that, at least in the last decade, the Secretary General continues to listen to U.S. industry.

Senator GRAMS. I just say that because I am reminded that about 2 years ago there were some political charges made on both sides, or from one side, that said that, somehow, Congress invited in industry to help rewrite pollution laws and somehow that was to the detriment of the environment and to the benefit of some of the industry. I looked at it in just the opposite way. If you do not have industry involved to have a voice and use their expertise—I

mean, I am not a heart surgeon; I would not pretend to do surgery, but we are going to be required to vote on legislation regarding rules and regulations there. But I think it is important. So I also agree with the ITU in opening the doors and inviting in industry to give their counsel, their expertise, and to help formulate better rules and regulations to operate, especially, as you have mentioned, in a global type market situation where you need that type of input.

Mr. Levin, you said earlier that, despite maybe some concerns, the ITU gives the U.S. some huge benefits. What kind of benefits come out of this that the public should know if they are wondering about the ITU?

Mr. LEVIN. Well, as I mentioned, let's take satellites, specifically, with which I am most familiar.

Satellites are inherently international. Satellites require the use of spectrum that spills over borders. In order for a satellite the operate, particularly if it is using spectrum that is currently occupied by other users, there needs to be some way to coordinate the spectrum with the existing users.

The ITU serves that function as the clearinghouse for sharing spectrum.

Another function the ITU has performed, particularly recently, is the use of a policy forum. It is a nonbinding effort where the world gets together to discuss world issues regarding telecommunications. In the case of the Geneva Policy forum last year, it was on satellite regulations—how do we have satellites provide service throughout the world?

The ITU is the ideal place for that kind of discussion and it served to be, as I said, the clearinghouse of all those ideas. It resulted, I believe, in each country feeling more comfortable with these global systems.

Senator GRAMS. It provides the forum?

Mr. LEVIN. It provides the forum for these ideas.

Senator GRAMS. While some present at this hearing may disagree, the ITU is probably one of the least known international organizations but probably one of the most growing in importance. I mean, if we look at the growth of technology from 1947, it is a completely different environment today. I think this places even more importance on a forum such as what the ITU provides.

By virtue of ratification, the U.S. and members of the Union are expected to play a very critical role in the future in telecommunications in the arena. What more can be done to increase the awareness of the public and the decision makers concerning the importance of the ITU to the global economy?

Maybe I should throw this out. Is it important that the ITU be a very highly visible organization or can it do its work in a more stealth-type mode?

Mr. Fisher, I will go to you first.

Mr. FISHER. Well, unfortunately, for those who are outside the field of telecommunications this is not a thing you would normally see on TV every evening. I am sure that it is a part of its role, as a consequence, that causes that.

But to the extent that the public is being asked to fund and support it, not only with their public support but with their public dol-

lars, I think it is important to bring to the fore at some point, and perhaps more forcefully, just how significant this is in our lives.

When I say "our lives," I mean beyond our telecommunications industry but in the lives of each and everyone of us every time we pick up a telephone or turn on the television set or our computer. It affects our lives. We are using, basically, standards that are organized by standard setting bodies like the ITU.

Certainly having the plenipotentiary in the United States for the first time, as I said, in modern telecommunications history is going to be a tremendous help in highlighting the importance of international community and international standard setting for the American public. I think that is true, too, for the Kyoto summit, our plenipotentiary 4 years ago, and other like summits.

I think these are one of the ways that we should really promote these kinds of activities.

Senator GRAMS. Mr. Levin.

Mr. LEVIN. To quickly respond, I am of two minds on this one.

First, I think the ITU has been a tremendous benefit to the United States, and even though it may not be that well known, the fact is it is well known within the telecommunications industry and it is working just fine.

On the other hand—and this is important—it works and it works well. I do think it could serve as a model for other international organizations. So to the extent that it could be appreciated for its efficiency and effectiveness and used as a model, I think that could help.

As Mr. Fisher points out, the fact is now that it is going to be in Minneapolis, I am sure the level of interest will increase, at least in the United States. But it is an effective organization and I think it can be used as a model.

Senator GRAMS. The new ITU Constitution provides for more regularized consideration of radio communication spectrum allocations. The ITU will hold radio communication conferences every 2 years in order to amend those regulations regarding radio.

What effect will this regularized process have on new technologies? Is it necessary to hold it this often, more often, or less often?

Mr. Levin?

Mr. LEVIN. Actually, I am a very big fan of that. Before, it used to be on an ad hoc basis. What would happen, having the experience of being at the last great ad hoc 1992 WARC, is there is a sense of urgency at those ad hoc conferences that there is never going to be another one again until the plenipot starts scheduling them when the plenipotentiary conference comes.

So as a result, a lot of decisions are made that may not be the best decisions or are made with the sense that if we don't get it done now, nothing is going to get done for years.

What has happened, as a result of the routinization of these radio conferences, is if they are every year, if something does not get done that year, we all know that it can get done 2 years following. This is because the process is that you set the agenda not only for the one coming up but also for the one following it. So there is a sense of continuity.

Also, there is no longer that sense of urgency which results in a better process.

Also, if a new technology does come about, which, in fact, happened at the last conference in 1995, to the benefit of the United States where there were these new low Earth orbit global systems to provide a high speed data service, the ITU could accommodate it. It was flexible enough, one, to push aside other work because it can be done in the next 2 years, as well as it was flexible to take in the new work that had just popped up.

So, in general, I am a very big fan of this 2 year process.

Senator GRAMS. Mr. Fisher?

Mr. FISHER. Mr. Chairman, I would have to share that.

I am a relative newcomer, to be honest with you, to the telecommunications industry. I have been with ADC for about 2 years. I can tell you the marked distinction of the telecommunications industry in my view is the rapidity of technological change.

To be honest with you, I am not even sure that 2 years is fast enough to keep up with the changes that are going to happen every single day in our industry. If you are a newcomer to this, you know that there is an acronym a minute in this business. It is because of technological change and very large amounts of dollars going into R&D.

So I certainly support flexibility.

Senator GRAMS. I used to be in TV broadcasting and, even then, they were making decisions on what equipment to buy because by the time they ordered it, got it, and installed it, it was obsolete. I mean, new things had come out.

So this is an industry, as you mentioned, that is moving very quickly in that regard.

The ITU permits the private sector, as we have mentioned, to become members of the organization, and the convention under consideration would permit a greater role for private sector members permitting them to make requests for consideration by the ITU.

In this regard, are you confident that the ITU insures that no one industry would be given more favorable access or influence in the ITU than another by having this open enrollment?

Mr. Levin?

Mr. LEVIN. Let me understand the question.

Senator GRAMS. Well, government belongs to those who show up. So if those who show up get more influence, then those who don't are—what?

Mr. LEVIN. Well, as we know, 80 percent of life is just showing up.

Senator GRAMS. Yes.

Mr. LEVIN. I think that those who do spend the effort tend to be the more successful. But I would like to think that what that invites is others to also make the effort, appreciating that the ITU is a place where you can cause change.

I do think, at least in the United States—and I am going to assume it will be that way in the rest of the world that has a private sector as well as an effective government part of these delegations—there is a balancing out. Our Government does tend to balance out interests, even though there are very aggressive industry

voices, which is fine. Sometimes these delegations get rather rough before we even go outside and deal with the rest of the world.

But I think that the balance between these very strong industry voices and the effectiveness of our own Government, the State Department, the FCC and the NTIA—I think it tends to balance itself out.

Senator GRAMS. Mr. Fisher, any comment?

Mr. FISHER. Mr. Chairman, I may be an idealist, but I will take the chance.

Using ADC Telecommunications as an example, we are not an Ericcson, an ALCATEL, or a Lucent. We are a billion dollars in revenues a year, and while growing, we are not going to have the type of resources and capital to be able to pour into these conferences that would be necessary to truly be a significant voice there.

But what I can tell you we are doing is we are pouring dollars into research and development to provide innovative solutions for carriers across the world, NDN solutions that will deliver their signals and their broadcasts to wherever they want it as fast as they want it to go. If nothing else, we are going to speak on the basis of our technological achievements, and we expect those achievements to come to the fore, even in large conferences, such as the ITU, and to influence standard bearing and standard setting in the future.

Senator GRAMS. What can be done, or, probably, what more can be done to enhance the participation by nonadministrative entities and organizations that are seeking their views on approaches to the challenges of telecommunications development? Should there be more enhancement for more agencies, private sector, or whatever, to get involved—in other words, a larger table, more input, more voices, more views?

Mr. LEVIN. If I could, first, I do think for the most part that it is open. I mean, there is an FCC process in which one can participate.

I think the only limitation I can tell seems to be that the focus of the activity tends to be in Washington, D.C. And then Geneva. It is not spread out as much. As a result, those who can afford or who have a presence in Washington tend to be slightly more dominant. But I don't think that is a very big concern.

As far as the ITU goes, the ITU is well on its way to open its doors. It has to have some location and some central point. I'm not sure you can really fix that one.

Mr. FISHER. Mr. Chairman, if I may, what I have seen is some mixed results. I think I agree with Mr. Levin that there is a concentration, certainly on national policy making in Washington, and on international in Geneva. More and more of the State PUC's are coming into the fore with the new Telecommunications Act of 1996. It creates a bit of a dichotomy for someone like us in the industry.

It is easy to pay attention to Washington, and trade associations and the FCC because it is all one location. But now we have 50 States to which we have to pay attention.

But to that extent, we have greater opportunity to influence local administration of telecommunications as well as Federal, as well as international. So I think it is opening up quite a bit.

Senator GRAMS. I just have two quick, brief questions dealing with the plenipotentiary conference in Minneapolis, Mr. Fisher, before we wrap up. We have a vote that is on right now.

As a member of the ITU Host Committee, you have played a very important role in preparation for this 1998 conference in Minneapolis. I know that the Host Committee is committed to staging a very first rate conference in the Twin Cities.

From the perspective of your other role as an executive with ADC Telecommunications, what issues that may receive consideration during the conference are of particular concern to your company?

Mr. FISHER. Mr. Chairman, what is always a concern in the plenipotentiary is, of course, as I think you indicated in your earlier questions, the opportunity to amend the Constitution and Convention. We are going to be watchful of that.

We want the doors to be further opened to industry participation and voice, not control necessarily—we want a voice. Certainly, the review report that is to be submitted to the plenipotentiary in that regard will be very important to us. We think it will highlight, frankly, the industry role in international telecommunications and do something that really has not been done to date, and that is to spark their interest in the ITU.

While there has been significant participation, in my view, by industry in ITU events, we have not always felt that we have had a specific voice. Now we would like to push that right to the max and I think it will spark greater interest by the industry in ITU affairs and, as a consequence, the public.

Senator GRAMS. The final question is this.

You have mentioned provisions for the cost of the conference are required of the host country, of any host country, to provide this. Congress, as you mentioned, has provided $7.5 million for the business sectors of the conference, rather than the $14 million in funding that had been originally requested and sought by the State Department.

You are currently in a very aggressive campaign, I think you mentioned, to solicit private sector contributions and sponsorships. The question, is, in hindsight, do you believe that a greater education of the role of the ITU, a higher profile, may be what will come out of this conference as far as the public goes, to Congress? Would that have resulted, do you think, in an increased support and appropriation for the plenipot?

Mr. FISHER. Mr. Chairman, in my own opinion, I think that is the case. When we were talking to people earlier this spring about funding, we were talking with people who were primarily interested in appropriations but who were not particularly schooled in telecommunications.

I honestly believe that the importance of the ITU and the plenipotentiary overall to the United States, as a Government to Government operation, was not fully appreciated at that time.

Now that is my personal view. I certainly believe that if good things come out of the Minneapolis Plenipotentiary, as we expect, this will certainly raise the consciousness and make things much easier in the future to host these types of events.

Senator GRAMS. I think a lot of feeling was that this was an industry event and not a public event.

Mr. FISHER. Yes, sir.

Senator GRAMS. But in most respects, this really helps to set the rules and regulations as to how the public and industry are both going to benefit from this. So, in hindsight, again, maybe there could have been a different view from the Congress.

Mr. FISHER. It might have been.

Mr. Chairman, frankly, if the plenipotentiary is left to private industry, it will be a cat fight. I think we really need an organizational hand in this that will bring in the nations of the world together to make some decisions that industry will fully support and that they had a voice in setting.

Senator GRAMS. Again, I want to thank you all for taking your time to be here this morning.

I just wanted to mention that I have noticed Ambassador McCann has been shaking her head in agreement with all of the things you have said. It is great when you see Government and private industry working together and sharing in common goals.

Again, just a reminder of the fact that the record will remain open for 3 days—that would be fine—for any questions that Senators may want to present to any or all of our witnesses today. Again, a quick reaction from you would be very much appreciated.

Again, thank you very much for your time here this morning.

The hearing is adjourned.

[Whereupon, at 11:12 a.m., the committee adjourned, subject to the call of the Chair.]

APPENDIX

UNITED STATES DEPARTMENT OF STATE,
WASHINGTON, D.C. 20520
September 24, 1997

THE HON. JESSE HELMS,
Chairman, Committee on Foreign Relations,
United States Senate.

DEAR MR. CHAIRMAN: Following the September 17, 1997 hearing at which the Honorable Vonya McCann testified, additional questions were submitted for the record. Please find enclosed the responses to those questions.

If we can be of further assistance to you, please do not hesitate to contact us.

Sincerely,

BARBARA LARKIN,
ASSISTANT SECRETARY,
Legislative Affairs.

RESPONSES OF AMBASSADOR MCCANN TO QUESTIONS ASKED BY SENATOR HELMS

Question. The 1996 letter of transmittal contained in the ITU treaty document indicates that the Administration placed several reservations in the 1992 Final Acts of the Plenipotentiary Conference. The first reservation indicates that the United States reserves the right to make additional reservations at the time of the deposit of instruments of ratification. The letter of transmittal goes on to say that the Department of State and other agencies involved recommend that no additional reservations are needed to protect U.S. interests. Does the Administration still recommend that no additional reservations are needed to protect U.S. interests?

Answer. Yes, the administration still recommends that no additional reservations are needed to protect U.S. interests.

Question. The first reservation (Number 68) indicates that the United States will not be bound by Administrative Regulations adopted prior to the date of signature of the Constitution and Convention. Which regulations specifically will the United States be bound by through ratification of the ITU Constitution and Convention?

Answer. The first U.S. statement (number 68) establishes that the United States will be bound solely by administrative regulations that it has expressly consented to through notification to the ITU. Administrative regulations that the United States has expressly consented to include: The radio regulations, with appendices and final protocol, done at Geneva December 6, 1979; entered into force January 1, 1982; definitively for the United States October 27, 1983; partial revision of radio regulations (Geneva 1979) relating to mobile services, with annex and final protocol, done at Geneva March 18, 1983; entered into force January 15, 1985; for the United States April 6, 1993); partial revision adopted by the first session of the World Administrative Radio Conference on the Use of the Geostationary-Satellite Orbit and the Planning of Space services utilizing it, signed at Geneva September 15, 1985; entered into force October 30, 1986; for the United States April 6, 1993; 1987 partial revision of the radio regulations (Geneva 1979) relating to mobile services, done at Geneva October 17, 1987; entered into force October 3, 1989; for the United States April 6, 1993; partial revision of the world administrative radio conference on the use of the geostationary-satellite orbit and the planning of space services utilizing it, signed at Geneva October 6, 1988; entered into force March 16, 1990; for the United States April 6, 1993; and international telecommunication regulations (telephone and telegraph) with appendices and final protocol, done at Melbourne December 9, 1988; entered into force July 1, 1990; for the United States April 6, 1993.

Question. What is the impact of incorporating declarations made at the time of signature of the. Final Acts of the World Administrative Radio Conference (Geneva 1979) as contained in the Administration's second declaration (Number 73)?

Answer. Incorporation of declarations made at the time of signature of the final acts of the World Administrative Conference (Geneva 1979) as contained in the administration's second statement (number 73) reiterates the U.S. position that references in article 44 of the constitution to the "geographical situation of particular countries" does not signify a recognition of claims of countries to exercise sovereign rights over, or preferential rights to, segments of the geostationary orbit.

Question. Please explain the Administration's rationale for including a declaration relating to Article 44 of the Constitution clarifying that the United States does not recognize claims to any preferential rights to the geostationary-satellite orbit. Are other Parties interpreting this Article as granting such rights? If so, how will the ITU handle such competing assertions.

Answer. Article 44 of the constitution is an important provision that deals with the rational, efficient and economic use of radio frequencies and the geostationary-satellite orbit, as well as equitable access to both. In regard to equitable access, article 44 provides that countries shall take "into account the special needs of developing countries and the geographical situation of particular countries." This language has been interpreted by some countries to reflect a right to exercise sovereign rights over segments of the geostationary orbit. Declarations made by the Republic of Colombia (number 37 of Kyoto reaffirming reservation number 48 made at Geneva) and the Republic of Kenya (number 72 at Kyoto reaffirming reservation number 53 made at Geneva), for example, incorporate by reference statements made by several equatorial countries -- the so-called Bogota declaration of December 3, 1976 -- regarding such preferential rights. The administration's statement with respect to this issue affirms its long-standing view that countries do not exercise sovereign rights over segments of the geostationary orbit and that references to the "geographical situation of particular countries" do not imply U.S. recognition of claims to "any preferential rights" to that orbit. Twenty-six other countries, including Australia, the Federal Republic of Germany, Denmark, Finland, France, Italy, Japan, Norway and the United Kingdom, share the U.S. view.

In the event of a dispute concerning claims of preferential rights to the geostationary orbit, countries may invoke the dispute resolution mechanisms available under article 56 of the constitution and article 41 of the convention.

Question. The third declaration broadly asserts the right of the United States to take whatever measures it may consider necessary to safeguard U.S. interests in response to actions taken bv other countries to protect their interests. Is this a standard declaration taken by all countries? What actions may trigger the United States to assert this right? Does this declaration give the United States adequate protections to respond to the actions of other countries or parties who take actions harmful to U.S. interests?

Answer. Many countries have adopted similar declarations reserving their right to take such actions as may be considered necessary to safeguard their interests in response to reservations by other countries that jeopardize such interests. Such declarations have been common in ITU treaty conference final acts since at least the early 1980S, and include, for example, the assertion of the right to take whatever actions are necessary to address what are considered to be inappropriate broadcasts by one country in the territory of another. Actions that jam U.S. broadcasts on appropriate frequencies might trigger the United States to take measures necessary to preserve its rights. This declaration does not itself establish the type of measures the United States might invoke to address a particular declaration that adversely affects U.S. interests, but rather puts countries on notice that the United States will take appropriate actions to enforce U.S. rights if jeopardized by other countries.

Question. Please clarify the effect of the Administration's third reservation (Number 97)

Answer. The administration's third statement in the final acts of the Kyoto conference deals with declaration number 80, which was included by a number of delegations unhappy with the decision taken by the plenipotentiary conference not to amend article 54 of the constitution (article 54 addresses the status and entry into force of administrative regulations). The U.S. declaration is intended to make clear that the United States did not agree with the interpretative and international law statements made in that declaration and that, regardless of how the delegations who made the declaration interpret the declaration and its effects, the declaration does not affect the application to the United States of article 54 of the constitution. A number of European nations made a declaration (number 94) similar to the U.S. declaration.

Question. What has been the response of the other Parties regarding the U.S. reservation regarding Cuba? Is the Administration satisfied that the reservation as drafted adequately protects U.S. policy and interests toward Cuba?

Answer. There have been no specific responses by other parties to the U.S. statement regarding Cuba. The administration believes that this reservation provides adequate notice to Cuba and others that the United States will take whatever actions it deems appropriate to ensure effective broadcasts to Cuba on appropriate frequencies, and to meet the radiocommunication needs arising from the United States' presence in Guantanamo. Nothing in this statement would interfere with the United States' ability to protect its rights vis-a-vis broadcasts to Cuba.

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