

The International Telecommunication Union
Reconstructed

by

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Abstract

The International Telecommunication Union began in 1865, and took its modern form in 1947 at the Atlantic City Conferences. The Extraordinary Plenipotentiary Conference held at Geneva in 1992 has made major revisions to its structure, dividing its substantive responsibilities among three new Sectors, and thus better fitting it to discharge its responsibilities.

1. Introduction

A distinguished architect (possibly Frank Lloyd Wright) held to the principle that, in matters of design, form follows function. That is a principle not to be confined to architecture. It could usefully be adopted by a number of international organisations. The ITU adhered to the principle at intervals throughout its existence, but did not embrace a practice of speedy or continuous change to meet altered function. The ITU's present structure, adopted in December 1992, however, once more complies with the principle.¹

The major original purposes of the ITU were twofold, to which another has been added in recent years. The originals were: first, technical specification, standards, compatibility and intercommunication; and second, questions of rates for communications

services. The third has come with the recognition of a responsibility to help in the development of telecommunications in countries less able to achieve that development themselves.² These functions are now represented in the three Sectors into which the major work of the ITU has been organised, with the Secretariat continuing to provide its central services.

There is another element, not a purpose but an element, which should be paramount. Any organisation should discharge its responsibilities efficiently and without delay. The new ITU structure incorporates a four year cycle, which is an advance on its previous incarnation. Whether the system will operate efficiently, we wait to see.

2. History

Historically the International Telecommunication Union can be traced back to the early international agreements of the 1840s in Europe respecting the telegraph.³ In 1865 a more general agreement was arrived at, and in 1868 in Vienna what is recognisably the Union with an official International Bureau was established. In due course the Telephone was added to the competence of the International Telegraph Union. A separate institution, the International Radio-Telegraphic Union, was created to deal with the new medium of radio when that came upon the scene. Although the Radio Union used the services of the Telegraph Union's International Bureau for its administrative requirements, it was not until 1932 that the logical step was taken and the 'Wire' and 'Wireless' Unions united to form the International Telecommunication Union.⁴

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The new Union underwent further metamorphosis, becoming a specialised agency of the United Nations in 1947.⁵ The structures then agreed persisted more or less intact although subject to mutation, and considerable change in the relative balance between the organs of the Union over the years. In particular the development of radio and of its use for space caused a massive increase in the duties and responsibilities of the International Frequency Registration Board.

Dissatisfaction with the structural and organisational ability of the Union to cope with modern requirements led to its revision in 1992, and the establishment of new arrangements which will take final legal effect on 1 July 1994, although in many of the new arrangements will be adhered to in advance of that date.

This restructuring of the ITU took place faster than had originally been anticipated. A Plenipotentiary Conference of the Union was held in Nice in 1989 in order to revise the then current ITU Convention, that of Nairobi of 1982.⁶ The Nice Conference was itself conscious that the swiftly changing telecommunications environment required that the ITU would need to alter its structures and procedures in order to cope.⁷ In particular the globalisation of telecommunications, the increased and increasing pace of technological change, the development of the information economy and its interaction with society and societies around the world had rendered the slow mechanisms of the ITU obsolescent if not obsolete. The Nice Conference itself did take some steps towards revising ITU structure but recognised that more radical surgery was necessary. To that end it established a High Level Committee of twenty-one members to review the structure and functioning of the Union.

The High Level Committee went to work with a will, reporting to the Administrative Council of the ITU in April 1991.⁸ By the time Report was available only six countries had ratified the Nice constitutional documents. Notwithstanding, the ITU Administrative Council decided to press ahead with reform, and arranged an Additional Plenipotentiary Conference in Geneva in December 1992 and as noted the revised ITU constitutional documents as there revised will come fully into force on 1 July 1994, although parts of the new constitution are already being operated.⁹

3. The New ITU

It should be emphasised that the 1992 revisions of the ITU were structural. Substantive revision of the law was not undertaken.

3.1 The Constitution and the Convention

Throughout its existence the single basic document of the ITU has been the various incarnations of the International Telecommunication Convention. Now the basic documentation has been divided into a Constitution and a Convention.^{10 11} The Constitution is intended to comprise constitutional provisions less likely to be amended by successive plenipotentiary conferences. The Convention contains other governmental provisions more likely to change. While this splitting of the material does involve a certain amount of cross- and repetitive citation for writers and commentators as well as for users, it must be conceded that the step is justified. It is a device that has worked satisfactorily in other of the UN family of Agencies, notably in the Universal Postal Union, allowing more structured and coherent discussion of change at conferences since detail and principle are kept separate.

3.2 Membership

Under the 1992 Constitution, membership of the ITU remains open only to States and the three routes to membership available under the immediately previous incarnations of the Union are retained. In the past I have suggested that it is inefficient that major international telecommunications organisation such as INTELSAT, INMARSAT and INTERSPUTNIK with their global responsibilities, and even the territorial and more limited organisations such as EUTELSAT, ARABSAT and PALAPA could not be members or at least associate members of the ITU.¹² I remain disappointed that the new documents do not permit these organisations to be members of the restructured Union. They are significantly more important in international telecommunications than many of the small state members of the Union, have the financial resources to make a greater contribution to ITU work than these small states, and could better represent the minnows within the international forum than many of these minnows themselves can - many of the smaller countries do not have sufficiently trained expert staff properly to cope. Last, it has been said to me that the

interests of the international satellite organisations are not always as well represented within the forums of the ITU as they might be were membership available to them.¹³ That said, it is interesting that Article 19.1 of the new Convention requires the Secretary General of the ITU and the Directors of the new Bureaux¹⁴ to encourage the enhanced participation of telecommunications entities in the activities of the Union and its working groups. Further Resolution PLEN/7 of the Geneva Conference instructed the Council and Secretariat to proceed as immediately as practicable to widen and deepen the participation of non-Member entities in the work of the Union. That is to be welcomed.

3.3 Basic principle

The major structural concept of the High Level Committee implemented in the new constitutional documents is that the substantive work of the Union should be organised in three separate sectors, corresponding to the major functions of the Union. This will have a significant impact upon all ITU work, not only that relating to space.

3.4 The cycle

Complementing these institutional changes, a more rigid programme of conferences will be scheduled within a four year cycle corresponding to a new shorter cycle of plenipotentiary conferences. The intention of these changes is the promotion of efficiency, cost effectiveness and the need more swiftly to respond to the rapidly changing telecommunications environment. That environment requires speedy decisions, particularly in the area of the setting of international standards.

3.5 Structure

Under the Nairobi Convention the ITU had seven organs in a federal structure. Three met at intervals -- the Plenipotentiary Conference, Administrative Conferences and the Administrative Council. Five permanent organs were charged with the detailed business of the Union. These were the General Secretariat, the International Frequency Registration Board, the International Radio Consultative Committee (CCIR), and the International Telegraph and Telephone Consultative Committee (CCITT).¹⁵ This pattern has been significantly altered.

Under art. 7 of the new Constitution the ITU comprises

1. the Plenipotentiary Conference as supreme organ of the Union;
2. Council;
3. world conferences on international telecommunication;
4. the Radiocommunication Sector;
5. the Telecommunications Standardisation Sector;
6. the Telecommunications Development Sector, and
7. the General Secretariat.

For this paper it is the three sectors which are most important. The other elements are of more or less standard form.

4. The Sectors

The Geneva revisions to the ITU constitution and structure replace the major former organs, the Consultative Committees and the International Frequency Registration Board, by three Sectors, the Telecommunication Development Sector, the Telecommunications Standardisation Sector and the Radiocommunication Sector, each headed by a Director, and each with a Bureau at its heart. Close cooperation between all three sectors is called for in CS arts. 12.2, 17.2 and 21.1 and elsewhere. Articles 19-22 of the new ITU Convention contain provisions common to the three sectors. Of the Sectors in their order:

4.1 The Telecommunication Development Sector

The Telecommunication Development Sector (TDS) is to deal with all telecommunications development matters within the purview of the Union. Chapter IV of the Constitution, (CS arts. 21-24) deals with the broad principles of the TDS, arts. 16-18 of the Convention giving further specification to its activities. In addition the TDS is to work through world and regional telecommunication development conferences, through study groups and through a bureau, the Telecommunication Bureau which is to be headed by the Director elected by the Plenipotentiary Conference (CS arts. 8.2.g and 21.3.c). Members of the TDS include the administrations of all members of the Union as of right together with any entity or organisation authorised by the appropriate procedures to be a member of the sector (CS art. 21.4).

Telecommunication development conferences are fora for discussion and consideration. They may be held on a world or regional basis, in a cycle of one world conference and such regional conferences as may be desirable in terms of resources and priorities within the four year cycle which the new ITU arrangements have adopted (CS art. 22.3). Conferences will not produce final acts, only resolutions, decisions, recommendations or reports. These must, of course, conform with the Constitution, Convention and administrative regulations. The foreseeable financial implications of proposals must be taken into account and conferences should not adopt resolutions and decisions which may cause expenditure above limits set down by Plenipotentiary Conference (CS art. 22.4)

World conferences are to establish work programmes and guide-lines to give direction and guidance for the Development Sector (CV art. 16.1.a). Regional Conferences deal with matters specific to the region concerned (CV art. 16.1.b). In their meetings Telecommunication Development Conferences are to fix objectives and strategies for a balanced world-wide and regional development of telecommunications (CV art. 16.1.c). That is fair enough but it is interesting to find the appropriate paragraph goes on to indicate that the conferences should give 'particular consideration to the expansion and modernisation of the networks and services of the developing countries as well as the mobilisation of resources required for the purpose'. 'They shall serve as a forum for the study of policy, organisational, operational, regulatory, technical and financial questions and related aspects, including the identification and implementation of new sources of funding' (CV art. 16.1.c). Again, therefore, we find channels of technical assistance and financial aid being both opened up and existing channels deepened.

The duties of the Director of the Telecommunication Development Bureau are laid out in art. 18 of the Convention.

4.2 The Telecommunications Standardisation Sector

The Telecommunication Standardisation Sector (TSS) is dealt with under Chapter III (arts. 17-20) of the Constitution and Section 6 (arts. 13-15) of the Convention, together with the general provisions referred to above.

The need for standard international procedures, practices, compatibility between equipment, and equipment protocols gave the initial impetus towards international agreement on telecommunication matters. It was quite simply necessary that standards were adopted as common between the different principalities of Germany, so that messages could be passed across borders. Fundamentally the position is no different today. Common standards for equipment and procedures for their operation are essential in the modern international community. Occasionally some questions of 'standard' are left to the decisions of the market place - the collision in video recorder standards between the Betamax and VHS system was abrupt and dispositive. The same may occur in other questions of telecommunications, notably in the area of high definition television. But while some matters can be left to the market place it is surely desirable that many questions of telecommunication standards and procedure are settled internationally by discussion and agreement.

The ITU has served as a forum for such discussions down through the years, latterly through conferences and the work of Study Groups of both the International Telephone and Telegraph Consultative Committee (CCITT) and the International Consultative Committee on Radio (CCIR). Regulations adopted by Administrative Conferences of the Union, and the Recommendations of the CCIs contain standards for the operation of telecommunications, and for mechanisms which can affect the operation of telecommunications equipment -- for example, the 'stray' radiation from micro-wave ovens or computer equipment. While different legal standing attaches to different products of the CCIs, one should not underestimate the effect that even a substantial (let alone a consensus) view formed in one of the many Working Groups of the two CCIs can have, especially given manufacturers' desire for market reasons to follow such advice. Where the product of the CCIs manifest as part of the ITU's Administrative Regulations, these are legal rulings. Recommendations and Administrative Regulations established under the ITU as it was structured remain in force under the new arrangements.

However, there was a problem to be tackled. In all international standard setting, whether through the ITU or otherwise, political and economic interests play a major and obvious role.¹⁶ ITU procedures were becoming slow and cumbersome. The involvement of the CCIs with other aspects of the ITU's

work contributed to a deceleration in standard setting. But there are other international fora through which international standards are set,¹⁷ and there was a risk (some would say already a practice) that the ITU would be bypassed on matters which properly ought to lie within its competence.

That the ITU procedures in standard setting or agreeing were not ideal was known even before the High Level Committee began its work - indeed, it was in part that knowledge that caused the Committee to be given its task. It is intended that the new standardisation sector, bringing together the different standardisation elements from the previous ITU structure, will repair and revivify ITU action in this area.¹⁸

The new TSS will be organised and coordinated by its Director (CV art. 15.1) who is to be elected by the Plenipotentiary Conference of the Union.¹⁹ It is to work through world standardisation conferences, study groups and the Telecommunication Standardisation Bureau. (CS art. 17.2) Members of the sector are, the administration of all members as of right, together with any entity or organisation authorised to join the Sector (CS art. 17.3). The Sector will study technical, operating and tariff questions and adopt recommendations on such matters with a view to standardisation on a world wide basis (CS art. 17.1.1).

World telecommunications standardisation conferences are to be convened every four years (CS art. 18.2) with the possibility of intercalating an additional conference should that prove necessary (CS art. 18.2). Dissimilar to the Development or the Radiocommunication Sectors, there is no provision for regional standardisation conferences. A World Conference will deal only with specific matters related to telecommunications (CV art. 13.1).

Questions to be studied and on which recommendations may be issued may be generated from within the Sector or referred to it by the Plenipotentiary Conference, other conferences or by the Council (CV art. 13.2.)

It is noteworthy that the Geneva Conference has not taken its sword to the Gordian knot of standardisation questions and responsibilities within the existing ITU structure. By art. 17.1.2 of the Constitution the precise responsibility of the Telecommunication Standardisation and the Radiocommunication Sectors is to be subject to continuing review in close cooperation with regard to matters of common interests to both

sectors. Duplication of effort (not to say conflict of interest) between the Study Groups of the Telecommunication and Radiocommunication Sectors has been foreseen as a possible problem, as is was between the CCITT and the CCIR. Articles 11.5 and 14.2 of the Convention therefore provide agreement as to continuing review and any desirable realisation of responsibilities as between change in responsibilities between the Radiocommunication and Standardisation Sectors' Study Groups, and that in case of failure to reach timely and effective agreement, the matter is referred to the Plenipotentiary Conference through the Council.

As indicated above, close cooperation between all three sectors is further called for. in CS 12.2, 17.2 and 21.1. In short it is recognised that the problems of standardisation and of radio communication matters are not easily extricable nor indeed in some instances should these matters be separated merely for the purpose of intellectual satisfaction or sterile neatness. Of all the United Nations agencies, the ITU has a history of a pragmatic approach to problems. It is good to see that approach will continue in this respect at least.

4.3 The Radiocommunication Sector

The Radiocommunication Sector has two elements, the Sector which carries out the main responsibilities of this element of the ITU, and the Radio Regulations Board, - a new creation albeit lineally the old International Frequency Registration Board.

4.3.1 The Sector

The remaining new sector within the ITU is the Radiocommunication Sector which is dealt with under Chapter II (arts. 12-16) of the Constitution and Section 5 (arts. 7-12) of the Convention. As radio is separately discussed below, it will suffice here merely to sketch the structure and operating mechanisms of the Sector.

It will be seen from the discussion immediately above that the division of responsibility between the Radiocommunication and Telecommunication Standardisation Sectors is to be subject to continuing review, and that close coordination between the Sectors is called for. In Chapter II of the Constitution, which deals with the Radiocommunication Sector, this is provided for under CS art. 12.1.2.

The purpose of the Radiocommunication Sector is to ensure 'the rational, equitable, efficient and economical use of the radio frequency spectrum by all radiocommunication services, including those using the geostationary satellite orbit, and to carry out studies without limit of frequency range (CS art. 12.1.1). Further on the basis of its studies the Sector is to adopt Recommendations on radiocommunication matters (CS art. 12.1.1).

The Sector is to work through world and regional Radiocommunication conferences, radiocommunication assemblies which are to be associated with world radiocommunication conferences, the Radio Regulations Board, study groups and the Radiocommunication Bureau headed by an elected Director.²⁰ Members of the sector are the administrations of all members of the Union as of right, together with any entity or organisation properly authorised in terms of the Convention.

World radiocommunication conferences are normally to be held every two years although that may be varied through the omission of a conference or the scheduling of an additional one (CS art. 13.2). The powers and duties of world communication conferences are further elaborated in art. 7 of the Convention. The general scope of the agenda of a world conference should be established four years in advance and the final agenda established by the Council preferably two years in advance of the conference (CV art. 7.2.2), and is to include any matter the Plenipotentiary Conference directs (CV art. 7.3). A world conference may partially or in exceptional cases completely revise the radio regulations and also deal with any questions of a world-wide character (CS art. 13.1; CV art. 7.2.1). It may instruct the Radio Regulations Board or the Radiocommunication Bureau, may put matters on the agenda for future world conferences and refer questions to the Radiocommunication Assembly (CV art. 7.2.1.c).

Radiocommunication assemblies are normally to be convened every two years to provide the technical basis for the work of world conferences. The assemblies usually act on the basis of the reports of study groups (CV art. 8.2), and deal with and issue recommendations on questions adopted by its own procedures, or referred to it by a Plenipotentiary Conference by any other Conference, by the Council or by the Radio Regulations Board (CV art. 8.1).

Much of the important work of the new Sector will be the routine administration of the registration of radio frequency

allocations, and of space systems, checking that assignments and systems proposed by Members conform to the requirements of the ITU system and are properly coordinated with those notified by other Members.²¹ In this the Sector's Bureau will take over from the tasks of the International Frequency Registration Board, and the remaining responsibilities of the Board will be taken by a new animal, the Radio Regulations Board.

4.3.2 The Radio Regulations Board

I discussed the proposed replacement of the previous International Frequency Registration Board by a Radio Regulations Board in one of my papers for the Washington Colloquium of the Institute.²² There is little to add. They have done as I hoped they would not!

The nine members of the new Radio Regulations Board (RRB) will be elected by the Kyoto Plenipotentiary Conference in 1994 (CS art. 8.2.h; CV art. 10.1).²³ Like the members of the predecessor Board, they will serve 'not as representing their respective Member States, or a region, but as custodians of an international public trust' (CS art. 14.3.1), a statement that goes right back to the Atlantic City language of 1947.²⁴ Then, some had hopes that the notion of 'public trust' would result in the election of members of the original IFRB on merit alone, but, following practice already emergent in the United Nations, a regional distribution of voting and of membership was adopted and has since continued. Indeed the requirement that the elected officials of the Union be nationals of different countries and regard be had to 'equitable geographic distribution' (CS art. 9.1.b) accentuates the departure from pure merit, merit not being, however, irrelevant (CS art. 27.2). In addition some structuring or representational element is surely present, notwithstanding the other language referred to above: 'Each member shall be familiar with the geographic, economic and demographic conditions within a particular area of the world' (CS art. 14.1).

Finally there is the matter of qualification. By CS art. 14.1 members of the Board are to be 'thoroughly qualified in the field of radiocommunications' and possess 'practical experience in the assignment and utilization of frequencies' (CS art. 14.1). This is a change. Members of the IFRB had to be highly qualified by technical training.²⁵

As noted, the RRB will have nine members. As originally conceived the

International Frequency Registration Board had eleven members.²⁶ In 1965, following an attack on the very existence of the IFRB, the Montreux Plenipotentiary reduced the size of the IFRB from eleven to five largely on cost arguments.

Importantly the members of the RRB will be part-time (CS art. 14.1), a matter which might be thought to detract from their apparent independence, since presumably, given the other requirements as to competence, they will be otherwise employed in telecommunications.²⁷ In any event, CS art. 14.3.1 provides that a member of the Board will not intervene in decisions concerning his home state, CS art. 14.3.2 prohibits him seeking or taking instructions from anyone, and from doing anything incompatible with independent Board status. Correlatively CS art. 14.3.3 provides that states Members of the Union are to respect the international character of the duties of members of the Board, and are not to attempt to influence members of the Board.²⁸

The new Board will normally meet up to four times a year and usually at Geneva, at which meetings at least two-thirds of the membership are to be present (CV art. 10.5.2). However, provision is also made that the Board 'may carry out its duties using modern means of communication' (CV art. 10.5.2). In general the Board is to seek unanimity, but if that is not forthcoming it may make a decision by voting, with at least two-thirds of the membership voting in favour (CV art. 10.5.3). Proxy voting is not permitted (CV art. 10.5.3). The RRB will have a Chairman and Vice-Chairman elected by the Board from its members to serve for one year, the Vice-Chairman succeeding the Chairman (CV art 10.5.2). In the absence of both a temporary Chairman may be elected for a particular meeting (CV art. 10.5.1).

To understand the work of the new Radio Regulations Board, some knowledge of its predecessor is necessary.

The International Frequency Registration Board (IFRB) was introduced by the 1947 Atlantic City reconstruction of the ITU following the Second World War. Under art. 6 of the Atlantic City Convention the IFRB had two essential duties; first, the orderly recording of frequency assignments by states in accordance with the procedures of the Radio Regulations 'with a view to ensuring the formal international recognition thereof', and second, (paraphrased) the providing of advice so as to help make the best use of the radio spectrum. These duties, elaborated in the Radio Regulations and revised and expanded by later

plenipotentiary conferences, encapsulate the role played by the IFRB through the next forty-five years.

This is not the place to rehearse the history of those years.²⁹ Suffice it to say that the IFRB played an integral role in the developing ITU responsibilities. It elaborated procedures for checking assignments notified to it for their compliance with the allocations in the Radio Regulations, for their potential for harmful interference and for conflict with existing stations. Its ability to delete unused frequencies from the International Register has not been unimportant. Its role in securing compromise between potentially interfering assignments was strategic. The advice it has given to Members and the preparatory and advisory work it has done for and during successive Radio Conferences was significant.

But many of these functions had become routine and have been given to the new Radiocommunication Sector. What is left?

The part-time Radio Regulations Board is left with a much reduced remit, albeit a wide-ranging one.

The duties of the RRB listed in the Constitution and Convention are wide-ranging. It is to approve Rules of Procedure under which registration of frequency assignments is to be made. The Rules can be commented on by Members of the Union, and in the case of a continuing dispute as to their terms, the matter will be put on the agenda of a world radiocommunication conference (CS art. 14.2.a). It is also to consider matters which cannot be solved by the application of these Rules by the Director and the Bureau of the Sector once they have been adopted.

The old IFRB had a major role in acting in disputes between administrations in respect of proposed and actual assignments. To an extent this role is to continue. By Geneva CV art. 10.2 the new Board is to consider reports from the Director on cases of harmful interference investigated at the instance of an interested administration, and formulate recommendations on the matter. The new Board members also have a duty to take part in an advisory capacity in radiocommunication conferences and assemblies. The Chairman and Vice-chairman have a duty to advise at Plenipotentiary conferences. In all such instances Board members are not to participate in the conference of assembly as part of their national delegations (CV art. 10.3).

In addition to the duties stipulated in the Geneva documents, the new Board may have

its responsibilities added to by a competent conference, or by the ITU Council with the consent of a majority of members in connection with the work of a competent conference (CS art. 14.2.c). Either route can add to the RRB's remit any matter concerning radiocommunication use.

But, when one looks at the cut-down responsibilities of the new RRB one must ask, is a Board necessary? *Ex facie*, the answer is 'probably not'. But such a swift answer is to overlook something important - the need that the international system shall be trusted. At the Montreux Plenipotentiary in 1965 the abolition of the IFRB was proposed, on the main ground that it had by then completed compiling the International Master Frequency List thus imposing order out of the wartime chaos, and that the remaining function of recording frequency assignments could be done simply by administrators within the General Secretariat. To an extent that is now occurring, with registration and recording passing to an administrative section within the Sector Bureau,³⁰ leaving the role of the Board largely advisory and, it seems, dischargeable by part-timers.

But to do away with a Board would have been to eliminate something important. The root justification of an IFRB or of an RRB is the instilling and maintenance of confidence in the international radio regulatory system. In 1965 at Montreux it was mainly the developing nations that stood out for the IFRB, perceiving it useful to them as an impartial voice in arguments as to frequency allocation, and as a source of disinterested advice. These justifications continue and have increased with the advent of satellite communications

The IFRB had many functions. But its most important function was not explicitly listed in its constituent documentation. Fundamentally, the IFRB gave credibility to the international system. Its presence and actions induced confidence, particularly among those countries less able in telecommunications matters. Unless there is a continuing general agreement (faith or belief, indeed) that the international system works, and works reasonably and fairly, the international system might well collapse. The laws of physics make necessary some sort of international system for the avoidance of harmful interference. But that is justification for only a minimal system. The ITU works to a broader frame and in bolder colours than those dictated by mere necessity: but to do so international confidence is required. The IFRB was a major

element in the creation of that trust. It is to be hoped that the part-time RRB will continue to sustain confidence. It is a tribute to the IFRB that much that it did will now be taken over, and perhaps better carried out by, the new Sectors. The Telecommunication Development Sector will take on some of the development work which sheltered within the IFRB. Objective and dispassionate treatment and advice will come from the Radiocommunication Sector, while the Standardisation Sector will also play a confidence-building role. Nonetheless, the numinous element of a 'tribunal of wise men' is not unimportant. The quality and actions of the new appointees are crucial.

5. Finance

Finally something must be said about the finances of the Union, as without finance the best structure in the world will not operate (or at least not satisfactorily).

In contradistinction to the usual UN method whereby contributions are assessed on the basis of gross national product, the financing of the ITU relies on each member choosing a class of contribution from a scale of units.³¹ This funding method which evolved last century, is under attack (particularly in the ITU) by the developing countries. They prefer the usual UN method which is more favourable to them, and which affords no discretion to contributors, and therefore is difficult for the major countries to avoid without patently going into arrears of contribution. Yet there is much to recommend the 'contributory unit' concept in what are, after all, organisations with limited financial requirements for their major function, namely the encouragement and facilitation of cooperative international action.

The 1992 Geneva financial arrangements have retained those agreed at Nice in 1989.³² The twenty-two classes of contribution range from a 40 unit class to a 1/16th (0.0625) unit class - a range in which the minimum is 1/640th of the largest (CV art. 33.1.1).

This is not satisfactory.

The ITU owes its origin and continuing justification to the need for international cooperation to ensure agreement on the best and most efficient arrangements for telecommunications and broadcasting. However, an unwelcome politicisation of the ITU has occurred, with, for example, non-technical considerations being urged to bar delegations from conferences, and the like. In recent

years there has also arisen an increasing demand that, apart from its technical duties, the agency should serve a major function as a channel through which technical and other assistance might flow to the developing countries. Down the years from 1947 the egalitarian UN principle of 'one member one vote' has contributed to alterations to the Purposes of the Union,³³ and changes to its structure designed more fully to promote the interest of the less developed world. 'Social and economic development,' coupled with technical assistance have become avowed aims of what was originally established as an agency through which technical arrangements might be arrived at. These purposes are given equal standing with the technical purposes of the Union and in 1992 a new permanent organ of the Union, the Telecommunications Development Sector has been established. One can applaud the intention of these moves, but a note of caution must also be sounded. Technical development and technology transfer is not the main and overriding purpose for which the ITU exists.

Like the UPU, the ITU retains an old-fashioned but effective method of financing whereby members select the class of contribution they are to make. Traditionally, developed countries select the larger contribution classes. But why should they continue so to do? Unlike such as INTELSAT and INMARSAT where contribution is linked to voting power, the ITU operates the UN normal 'one-state-one-vote.' In the ITU, however, voting power is becoming grotesquely divorced from its financial implications. The 0.0625 minimum unit class contemplated by CV art. 33.1.1 of the Geneva Convention is 1/640th of the 40 unit class of contribution that the major nations are expected to assume. Many Members pay an eighth, a quarter or a half unit. A small number of Members pay the bulk of the cost of an organisation in which a 0.0625 unit contributor has the same voting weight as a 40 unit contributor. This cannot be permitted to continue.

6. Conclusion

The future is not unclouded. The primary purpose of the ITU lies in providing a forum, mechanisms and procedures within which international telecommunications can be established and made to work efficiently and with minimal mutual interference. Unwise attempts to wrest the ITU from that purpose by overstressing telecommunications development in

the less-developed areas of the world could damage the ITU. A short-sighted abuse of the financial arrangements could be symptomatic. Yet the restructuring of 1992 has great potential. In the new ITU form has followed function. We may hope that those who live and work within the new architecture find that form effective, efficient, congenial and without too many unpleasances.³⁴

NOTES

¹ Final Acts of the Additional Plenipotentiary Conference, Geneva, 1992. Constitution and Convention of the International Telecommunication Union (Geneva, ITU, 1993).

² In the past this would have been called 'technical assistance'.

³ I have laid out the history of the ITU more fully in my Law and Space Telecommunications (Aldershot: Dartmouth; Brookfield, VT, USA: Gower Publishing, 1989) 313-25.

⁴ Telecommunication Convention, General Radio Regulations, Additional Radio Regulations, Additional Protocol (European), Telegraph Regulations and Telephone Regulations, Madrid 9 December 1932; 151 LNTS 4.

⁵ International Convention on Telecommunications, Atlantic City, 2 October 1947; 1950 UKTS No. 76, Cmd. 8124; 63 Stat. 1399, TIAS 1901

⁶ International Telecommunication Convention, with Final Protocol, Additional Protocols I to VII and Optional Additional Protocol, Nairobi, 6 November 1982; 1985 UKTS No. 33, Cmd. 9557, (not yet published in the UST or TIAS Series).

⁷ A number of documents are significant, including 'The Missing Link' (the Report of the Maitland Commission), 1985, and 'The Report of the Secretary General's Advisory Group on the Changing Telecommunications Environment', (the Report of the Hansen Committee)(February 1989).