

7<sup>th</sup> Eilene M. Galloway Symposium  
Global and Regional Space  
Organizations and Law  
December 6, 2012

**Restructured Organizations: From the Cold  
War to the Era of Globalization**

Patrick Masambu  
Deputy Director General and  
Director of Technical Affairs



# 1. THE HISTORY OF ITSO, IMSO AND EUTELSAT

## Introduction

This presentation aims at providing a brief overview about the three main intergovernmental telecommunications satellite organizations, the governing legal instruments and the legal challenges they face while implementing them. It is by no means exhaustive, but hopefully can generate some further reflections on some aspects of space law.

### (a) ITSO

- The international Telecommunications Satellite Organization (ITSO) monitors and interfaces with Intelsat Ltd, the commercial telecommunications entity it supervises to ensure availability of international public telecommunications services to all countries of the world.
- Previously known as “INTELSAT”, ITSO is an intergovernmental organization established in 1964, comprising 149 member states, that incorporates the principle of the UN General Assembly resolution 1721 (XVI) governing availability of satellite communications on a global and non-discriminatory basis to all nations of the world.
- The organization underwent a major restructuring in 2001 primarily to secure long term viability of its communication system and in order to attract private investments.



## ITSO contin' d

- As a result of the legal framework created thru restructuring , a commercial company named “Intelsat” was also established to operate the satellite system and provide space segment in accordance with agreed core principles: global connectivity; lifeline connectivity and non-discriminatory access, using the satellite system and geostationary orbital locations previously under the control of the intergovernmental organization.
- ITSO has been an efficient catalyst for global co-operation in satellite communications and instrumental in linking developing countries to the global economy.
- At intergovernmental level: The Assembly of Parties comprising 149 member countries meets in ordinary sessions every two years to deal with policy, strategic and budget approval issues
- At operational level: The Executive Organ is headed by the Director General as the CEO and Legal representative of ITSO



# IMSO

## **(b) IMSO**

- The International Mobile Satellite Organization(IMSO) is the intergovernmental organization that oversees certain public satellite safety and security communications services provided via the Inmarsat satellites.
- The services include: maritime safety services within the Global Maritime Distress and safety system(GMDSS); search and rescue coordinating communications; aeronautical safety services and general communications.
- The Organization establishment was based on two international public law instruments under auspices of the International Maritime Organization(IMO): Convention on the International Maritime Satellite Organization(Inmarsat) and the Operating Agreement between public/private telecommunications entities. Both entered into force in 1979.



## IMSO cont'nd

- Inmarsat had the initial responsibility to provide space segment for improved maritime communications but this was later amended to include land mobile and aeronautical communications. The intergovernmental name was also changed to International Mobile Satellite Organization to reflect the amended purpose.
- Adoption of amendments to the Inmarsat Convention and Operating Agreement in 1998 led to transformation of the Organization's business into a privatized corporate structure, while retaining intergovernmental oversight.
- Today the Organization operates thru: An Assembly of Parties comprising 94 member states that meets in ordinary session once every two years; and a Directorate headed by a Director General as the CEO and legal representative.



# EUTELSAT

## (c) EUTELSAT

- The European Telecommunications Satellite Organization, EUTELSAT was created in 1977 with the purpose of operating a European satellite system. The constitutive text, the EUTELSAT Convention today has 48 European member states.
- Initially established in Europe, today its fleet covers Europe, the Middle East, Africa, Asia and east coasts of North and South America providing the entire range of telecommunications services.
- The restructuring process completed in 2001 led to: transfer of all assets , operational activities and related obligations in respect of the space segment to Eutelsat S.A ,while the intergovernmental Organization that remained was responsible for ensuring that Eutelsat S.A observes the basic principles of public service/universal service, Pan European coverage, non-discrimination and fair competition.
- The governance structure comprises of an Assembly of Parties and a secretariat headed by an Executive Secretary.

# 2. THE MAIN LEGAL INSTRUMENTS

## (a) ITSO

### ITSO Agreement

- The ITSO Agreement includes amendments to the Agreement approved by the 25<sup>th</sup> Assembly of Parties in Nov 2000
- Establishes the restructured ITSO
- Has 21 articles dealing with issues such as:
  - ✓ Main Purpose and Core Principles
  - ✓ Supervision of Intelsat
  - ✓ Financial Principles
  - ✓ Role, powers and responsibilities of the Assembly of Parties
  - ✓ Frequency Assignments and role of Notifying Administrations
  - ✓ Amendment



# LEGAL INSTRUMENTS Contn' d

## ❑ **Public Service Agreement**

- Entered into July 2001 between ITSO and Intelsat to ensure that Intelsat fulfils its “Public Service Obligations”, namely: maintenance of global connectivity and coverage; serving lifeline customers; non-discriminatory access to the Intelsat system
- Has 8 articles covering:
  - ✓ Obligations to honor PSO
  - ✓ Supervisory role of ITSO
  - ✓ Governing law and disputes

## ❑ **Assembly of Parties- Rules of Procedure**

- Includes amendments to rules of Procedure approved in June 2010
- Has 17 rules covering such issues as:
  - ✓ Documentation
  - ✓ Representation
  - ✓ Quorum and Voting





# LEGAL INSTRUMENTS contin' d

## (b) IMSO

### ❑ IMSO Convention

- Adopted at the Inmarsat Assembly session in 1998, the amendments transformed the Organization into a privatised corporate structure while retaining intergovernmental oversight of certain public service obligations, particularly the GMDSS.
- Established IMSO to ensure provision by each Provider, of maritime mobile satellite communications for GMDSS in accordance with IMO legal framework
- IMSO Convention amended in 2008
- Has 22 articles dealing with:
  - ✓ Purpose and functions of IMSO
  - ✓ Oversight of GMDSS
  - ✓ Role and powers of the Assembly and Director General
  - ✓ Costs
  - ✓ Amendment



# LEGAL INSTRUMENTS contin' d

## ❑ Public Service Agreement

- Entered into between IMSO and Inmarsat
- Has 17 articles covering issues like:
  - ✓ Public Service Obligations
  - ✓ International standards and regulation
  - ✓ Governing law

## ❑ Rules of Procedure

- Has 34 articles covering for example:
  - ✓ Sessions
  - ✓ Participation
  - ✓ Agenda and Documentation
  - ✓ Voting etc

# LEGAL INSTRUMENTS cont'nd

## (c) EUTELSAT

### The EUTELSAT IGO Convention

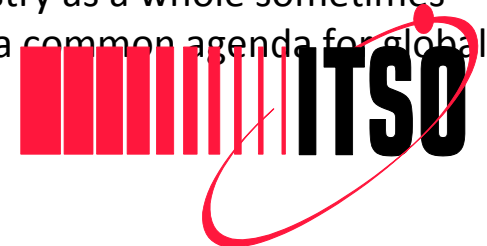
- Comprises amendments to the original EUTELSAT Convention
- Applied on provisional basis from July 2001 and on definitive basis from November 2002
- Has 21 articles covering issues such as:
  - ✓ Establishment of EUTELSAT and the company EutelsatS.A
  - ✓ Purposes of Eutelsat
  - ✓ Costs
  - ✓ Structure, composition of meetings, procedure and functions of the Assembly of Parties
  - ✓ The secretariat
  - ✓ Amendments and Termination



# 3. THE LEGAL CHALLENGES FACED BY ITSO,IMSO,EUTELSAT

At the individual level of each of the three organizations, there may be specific legal challenges, however at the general level, there are at least four main challenges:

- ❑ Amendment of the Treaties - The process and time it takes to make any amendment to a treaty document tends to be very long and complicated. This issue can be a major bottleneck for an organization dealing with a very innovative and rapidly evolving sector like ICT.
- ❑ The second issue is one concerning the ability to implement certain treaty provisions, and in particular in the area of disputes and arbitration. While the provisions are quite clear, enforcement of decisions may be rather challenging as well time consuming if one party is not cooperative.
- ❑ Thirdly, the absence of a global legal framework for a harmonized approach in the oversight function required of the three intergovernmental agencies creates a potential opportunity for conflicting interpretation of similar situations.
- ❑ Finally, the very limited international regulation of the satellite industry as a whole sometimes poses a challenge when it comes to the efforts of trying to agree on a common agenda for global broadband development.



# CONCLUSION

- ITSO, IMSO, EUTELSAT IGO share the same history and as such they have very similar legal instruments.
- Each has an important supervisory role in the satellite industry that they have been able to perform successfully despite the challenges that they face.



THANK YOU

contact: [pmasambu@itso.int](mailto:pmasambu@itso.int)

