

Management Procedures for International Communications Gateway Exchanges

Order No. 22 of the Ministry of Information Industry of the People's Republic of China

The Management Procedures for International Communications Gateway Exchanges has been passed by the Ninth Ministry Affairs Meeting on March 14, 2002. These are promulgated now and go into effect as of October 1, 2002.

Ministry of Information Industry Minister Wu Jichuan

June 26, 2002

Part 1. General provisions

Article 1. These procedures have been formulated in accordance with the Telecommunications Regulations of the People's Republic of China in order to strengthen the management of international communications gateway exchanges, safeguard state interests, and promote the sound and orderly development of international communications.

Article 2. The establishment of international communications gateway exchanges and the conduct of international telecommunications business within the borders of the People's Republic of China must comply with these procedures.

Article 3. International communications gateway exchanges (hereinafter referred to as "international information gateways") consist of international communications channel gateways, international communications service gateways, and border area international communications gateways.

The term "international communications channel gateway" refers to the transfer point between a domestic communications transmission channel and an international communications transmission channel, and includes:

1. the landing or entry stations within China for international communications optical cables, electric cables, and microwaves;
2. the landing or entry extension terminals within China for international communications optical cables, electric cables, and microwaves;
3. the gateway stations and earth stations installed within China for international satellite communications systems; and
4. other transfer points that link domestic communications transmission channels with international communications transmission channels.

The term “international communications service gateway” refers to the service transfer point between a domestic communications service network and an international communications service network, and includes:

1. international exchanges for telephone service networks (including signal transfer points for international telephone service networks);
2. international exchanges for frame relays, digital data networks (DDN), and ATM service networks;
3. Internet international switching routers; and
4. other business transfer points that link domestic communications service networks with international communications service networks.

The term “border area international communications gateway” refers to direct international circuits connected to the communications networks of adjacent regions outside China’s borders by means of domestic switchboards.

Article 4. The Ministry of Information Industry is responsible for examinations and approvals of the setting up of international communications gateways and for the supervision and administration thereof.

Article 5. Wholly state-owned telecommunications service providers shall make the applications for setting up international communications gateways, and shall also be responsible for their operation and maintenance.

No entity or individual may set up an international communications gateway in any form without approval from the Ministry of Information Industry.

Article 6. International communications services within the borders of the People’s Republic of China must be conducted through international communications gateways, the establishment of which has been approved by the Ministry of Information Industry. No entity or individual may engage in international communications by any other means.

Communications with the Hong Kong and Macau Special Administrative Regions and the Taiwan Region shall be administered with reference to the administration of international communications.

Article 7. The setting up international communications gateways shall comply with the relevant state laws and regulations and shall be subject to supervision, inspection, and guidance by the Ministry of Information Industry and the communications administrations of the relevant provinces, autonomous regions, and municipalities directly administered by the central government.

Part 2. Establishment, adjustment, and cancellation of international communications gateways

Article 8. The number of and locations for the establishment of international communications gateways shall be determined by the Ministry of Information Industry on the basis of the overall plan for the development of China’s international communications network, the applications submitted by telecommunications service operators, and the elements needed for the development of international telecommunications services.

Article 9. International communications channel gateways shall be established at locations that provide easy landing or entrance in China for international marine optical cables or terrestrial optical cables, and consideration shall be given to factors such as network security and reliability and convenience of extensions to the domestic network.

Article 10. International communications service gateways shall be established in central cities in which international communications businesses are concentrated.

Article 11. Border area international communications gateways shall be established in cities at or above the prefectural level adjacent to external regions, and consideration shall be given to factors such as the future development of the said cities and the volume of their communications services with the adjacent external regions.

A border area international communications gateway may be used only for point-to-point communications between the area where the gateway is located and the corresponding area across the border, and may not be used to make transfer connections with telecommunications services outside the said areas.

Article 12. To establish an international communications gateway, an application should be submitted to the Ministry of Information Industry together with the materials set forth below:

1. an application for the establishment of an international communications gateway;
2. the international communications infrastructure operating permit or the international telecommunications service operating permit;
3. the technical program for the establishment of the international communications gateway; and
4. other materials requested for submission by the Ministry of Information Industry.

Article 13. The Ministry of Information Industry should complete its examination of the materials specified by the provisions of Article 12 and issue a reply on whether it approves or rejects the application within sixty days after the receipt of all materials.

Article 14. To cancel an established international communications gateway, an application must be submitted thirty days in advance to the Ministry of Information Industry, and the international communications gateway may be canceled only after approval is received from the Ministry of Information Industry. Moreover, aftermath issues shall be properly handled. The written application should include a description of the current state of the international communications gateway that is to be canceled and the measures to be taken to handle aftermath issues after the cancellation.

Projects for expanding the capacity of, or making adjustments to, already established international communications gateways should be examined and approved in accordance with the relevant regulations. The telecommunications service operators should submit a report on the plan for the capacity expansion or the adjustment to the Ministry of Information Industry for the record ninety days prior to the commencement of work on the project, unless otherwise specified by state regulations.

Article 15. After a project for establishing an international communications gateway has been approved, it should be submitted to the relevant authorities for examination and

approval in accordance with the state-specified procedures for the administration of project construction.

Article 16. If earth stations using very small aperture terminals (VSAT) are to be used for operating international communications, the operators should conduct examination and approval procedures for international communications gateways and, after receiving approval to establish the stations, should fulfill the examination and approval procedures for the establishment of the wireless stations in accordance with the relevant regulations.

In order to set up a wireless station for international communications, after approval to establish an international communications gateway has been received, the examination and approval procedures for establishing the wireless station should be fulfilled in accordance with the relevant regulations.

Part 3. Administration and operation of international communications gateways

Article 17. Operators of telecommunications services that establish international communications channel gateways must strengthen management over international communications transmission channels, and may not use international communications transmission channels to engage in illegal activities. If a service operator finds that some third party is using an international communications transmission channel to engage in illegal activities, it should assist the relevant authorities in taking measures to halt such use in accordance with the relevant state regulations.

Article 18. Telecommunications business operators that have obtained approval for establishing international communications channel gateways are duty-bound to provide international communications transmission channels to telecommunications service operators and may not adopt discriminatory measures toward the latter. They may not provide international communications transmission channels to telecommunications service operators that have not obtained approval for establishing international communications service gateways.

Article 19. Telecommunications service operators that have established international communications channel gateways may lease dedicated international communications transmission channel lines to users, and should set up a centralized user filing system. Such dedicated international communications transmission channel lines may only be used for point-to-point communications within a specified scope of business, and should be used only for the users' internal operations and may not be used for providing telecommunications services.

The leasing of dedicated international communications transmission channel lines by operators of very small aperture terminal (VSAT) communications businesses should be handled in accordance with the provisions of the preceding paragraph.

Article 20. Telecommunications business operators that have established international communications gateways should simultaneously set up corresponding ancillary information security facilities, and may only begin operations after examination and acceptance

of the facilities by the Ministry of Information Industry. When making alterations or expansions to international communications gateways, the normal operation of the ancillary information security facilities must be ensured.

Article 21. Telecommunications business operators that have established international communications gateways should set up and perfect security management systems and carry out technical precautionary measures to ensure secure and reliable operations. If a serious malfunction or a major security issue arises in an international communications gateway, the relevant telecommunications service operator should be promptly notified, emergency measures should be taken to restore normal operation, and the circumstances should be reported to the Ministry of Information Industry within twenty-four hours after the matter takes place.

Article 22. The establishment of virtual networks through Internet international gateways for the purpose of operating telecommunications services should be reported to the Ministry of Information Industry for approval. The establishment of dedicated virtual networks through international Internet gateways for the purpose of internal operations should be reported to the Ministry of Information Industry for the record.

Article 23. Telecommunications service operators that establish international communications gateways have the obligation to cooperate with security inspections carried out by the relevant state authorities in accordance with the law and with corresponding measures taken by the said authorities.

Article 24. In accordance with the requirements of the Ministry of Information Industry, telecommunications service operators that have established international communications gateways should twice a year—before June 30 and before December 31—report the relevant circumstances of their international communications gateways to the Ministry of Information Industry and to the communications administrative authorities of the provinces, autonomous regions, or directly administered municipalities in which they are located. The specific contents and requirements of such reports are set forth in the Addendum to these procedures. The Ministry of Information Industry may make adjustments to the specific contents and requirements of the submitted information as listed in the Addendum, and may publish these anew.

Article 25. Operators of telecommunications services that have not obtained the right to operate international communications infrastructure facilities may not directly lease international communications transmission channels outside China's borders, nor may they purchase, construct by themselves, or participate in the construction of international communications transmission channels.

Operators of telecommunications services that have not obtained the right to operate international telecommunications businesses may not lease international transmission channels to operate international communications services, nor may they purchase, construct by themselves, or participate in the construction of international communications transmission channels.

Part 4. Penalty provisions

Article 26. If an international communications gateway has been established without authorization in violation of these procedures and without approval from the Ministry of Information Industry, the Ministry of Information Industry or the communications administrative authority of the province, autonomous region, or municipality directly administered by the central government should ex officio issue orders to dismantle the illegal international communications facility within three days, confiscate the illegal gains, and impose a fine of not less than three times and not more than five times the illegal gains. If there have been no illegal gains, or the gains were less than 50,000 yuan, a fine of not less than 100,000 yuan and not more than 1,000,000 yuan shall be imposed. If the circumstances are serious, an order shall be issued to suspend operations and conduct rectification.

Article 27. If, in violation of Article 11 of these procedures, a border area international communications gateway has been used to conduct beyond-limit switching of telecommunications services, the Ministry of Information Industry or the communications administrative authorities of provinces, autonomous regions, or municipalities directly administered by the central government should ex officio issue orders to rectify the matter within two days, confiscate the illegal gains, and impose a fine of not less than three times and not more than five times the illegal gains. If there have been no illegal gains, or the gains were less than 50,000 yuan, a fine of not less than 100,000 yuan and not more than 1,000,000 yuan shall be imposed. If the circumstances are serious, an order shall be issued to suspend operations and conduct rectification.

Article 28. If, in violation of the provisions of these procedures, any one of the acts set forth below have been committed, the Ministry of Information Industry or the communications administrative authorities of provinces, autonomous regions, or municipalities directly administered by the central government should ex officio issue an order to rectify the matter and impose a fine of 30,000 yuan:

1. establishing without approval from the Ministry of Information Industry an international communications gateway, but not yet having engaged in international communication;
2. establishing without approval from the Ministry of Information Industry a virtual network via an Internet international gateway for the purpose of engaging in telecommunications services; and
3. provision of assistance by a telecommunications service operator to a third party for engaging in international communications without going through international communications gateways.

Article 29. If, in violation of the provisions of Article 18 of these procedures, an operator of an international communications information channel resorts to discriminatory measures when providing international communications information channels to a telecommunications service operator that has obtained approval for setting up an international telecommunications service gateway, or provides international communications information channels to a telecommunications service operator that has not obtained approval for

setting up an international telecommunications service gateway, the Ministry of Information Industry or the communications administrative authorities of the province, autonomous region, or municipality directly administered by the central government should ex officio issue an order to correct the matter and impose a fine of not less than 10,000 yuan and not more than 30,000 yuan.

Article 30. If the provisions of Article 17, Article 19, Article 20, Article 21, Article 23, and Article 24 of these procedures have been violated by failure to comply with regulations when constructing, managing, or using international communications channels, or by failure to fulfill obligations or failure to submit materials to the Ministry of Information Industry in accordance with regulations, the Ministry of Information Industry or the communications administrative authorities of the province, autonomous region, or municipality directly administered by the central government should ex officio issue an order to correct the matter and impose a fine of 10,000 yuan. The relevant persons in charge shall be given disciplinary sanctions by the entity in which they are located in accordance with the seriousness of the circumstances. If the violations constitute crimes, criminal liability shall be pursued according to law.

Article 31. If the provisions of Article 25 of these procedures have been violated, the Ministry of Information Industry or the communications administrative authorities of the province, autonomous region, or municipality directly administered by the central government should ex officio issue an order to correct the matter and impose a fine of 10,000 yuan.

Part 5. Supplementary provisions

Article 32. The establishment of international communications gateways by noncommercial Internet international interconnection entities shall be administered with reference to these procedures.

Article 33. These Procedures go into force as of October 1, 2002.

Addendum

1. Contents of the materials that international communications channel gateway operators are required to submit at regular intervals:

1. the detailed address of the location where the international channel gateway is situated;
2. the persons in charge and their contact telephone numbers;
3. circumstances of the use of the channels including the countries or regions accessed, the names of the enterprises at the opposite terminal, types of service carried, and total capacity of correspondence; and
4. the names of the users that lease dedicated international communications transmission channel lines, the nature of the use of these dedicated lines (for own use or for operating international telecommunications services), areas accessed, the names of the enterprises at the opposite terminal, and communication capacity.

2. Contents of the materials that international communications service gateway operators are required to submit at regular intervals:

1. the detailed addresses of the locations where their international communications service gateways are situated;
2. the persons in charge and their contact telephone numbers; and
3. the countries or regions accessed, name of the channel provider, the names of the enterprises at the opposite terminal, types of service carried, and total capacity of correspondence.

3. Content of the materials that border area international communications gateway operators are required to submit at regular intervals:

1. the detailed addresses of the locations where their border area international communications gateways are situated;
2. the persons in charge and their contact telephone numbers; and
3. the countries or regions accessed, the names of the enterprises at the opposite terminal, transmission methods, and total capacity of correspondence.

4. Content of the materials that entities possessing established Internet international communications gateways are required to submit at regular intervals:

1. the detailed addresses of the locations where their Internet international communications gateways are situated;
2. the persons in charge and their contact telephone numbers;
3. the countries or regions accessed, the names of the enterprises at the opposite terminal, and total capacity of correspondence;
4. the volume of data flow (as calculated by the gateways of Beijing, Shanghai, and Guangzhou, respectively);
5. topology charts (to be submitted only in December of each year);
6. the IP [Internet Protocol] address range, including the IP address segments used by various connected users (to be submitted only in December of each year); and
7. the distribution of IP addresses in backbone networks, which shall include the geographical location of each IP address on the international gateway routers and the IP addresses of the backbone networks.

5. Requirements for the materials to be submitted by international communications gateway operators:

When submitting the above materials to the Ministry of Information Industry, international communications gateway operators should at the same time submit the materials to the communications administrative authority of the provinces, autonomous regions, or municipalities directly administered by the central government where the said international communications gateway are located.

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