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| **Expert Group on International Telecommunication Regulations (EG‑ITRs)** |  |
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| Regional Commonwealth in the field of Communications |
| PROPOSALS FOR PREPARATION OF THE EG-ITRs FINAL REPORT |
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Introduction

The International Telecommunication Regulations (ITRs) is one of the instruments of the Union – the Administrative Regulations, which regulate the use of telecommunications and shall be binding on all Member States (CS29 and CS31). The ITRs complement the ITU Constitution and Convention with a view to attaining the purposes of the Union in promoting the development and efficient operation of telecommunications.

A world conference on international telecommunications (WCIT) may partially or, in exceptional cases, completely revise the ITRs and may deal with any question of a worldwide character within its competence and related to its agenda (CS146).

WCIT-12 (Dubai, United Arab Emirates) revised the 1988 ITRs. The 2012 ITRs then entered into force on 1 January 2015 (CS Article 54):

– provisionally for Member States having signed the ITRs but not having notified the ITU Secretary-General, until the time at which such notification is made (CS218);

– between Member States having notified the ITU Secretary-General prior to that date of their consent to be bound by the treaty.

There are also a number of Member States which, for various reasons, often having to do with their participation in individual political or economic unions, have not signed the new treaty. Under such conditions:

– Member States not party to the 2012 ITRs remain subject to the provisions of the 1988 ITRs, if they were party thereto;

– relations between Member States not party to the 2012 ITRs and Member States party to the 2012 ITRs are governed by the provisions of the 1988 ITRs.

If, moreover, a Member State fails to notify the Secretary-General by 31 December 2017 of its decision concerning its consent to be bound by the treaty, that Member State shall be deemed to have consented to be bound by the new treaty (CS221A).

Discussion

WCIT-12 (Dubai, United Arab Emirates) adopted Resolution 4 (Dubai, 2012), on periodic review of the ITRs, in which it recognized:

a) that the ITRs are one of the pillars supporting ITU's mission;

b) that the ITRs consist of high-level guiding principles that should not require frequent amendment, but in the fast-moving sector of telecommunications/ICTs may need to be periodically reviewed,

and also noted that the ITRs:

a) establish general principles on the provision and operation of international telecommunications;

b) facilitate global interconnection and interoperability;

c) promote efficiency, usefulness and availability of international telecommunication services.

The Plenipotentiary Conference (Busan, 2014) (PP-14), having reviewed the outcomes of WCIT-12, adopted Resolution 146 (Rev. Busan, 2014), on periodic review and revision of the ITRs, resolving therein that a periodic review of the ITRs shall normally be carried out every eight years and that the review process of the ITRs shall commence in 2017. To that end, PP-14 instructed the Secretary-General to convene an Expert Group on the ITRs (EG-ITRs), open to the ITU Member States and Sector Members, with terms of reference and working methods established by the ITU Council, to review the ITRs, and to submit the report of EG‑ITRs to the 2018 session of the Council for consideration, publication and subsequent submission to PP‑18.

The ITU Council at its 2016 session adopted Resolution 1379, providing for:

a) the creation of the EG-ITRs, open to all Member States and Sector Members, with the terms of reference shown in Annex 1 of that resolution;

b) preparation by EG-ITRs:

– of a progress report to the 2017 session of the Council;

– of a final report to the 2018 session of the Council for onward submission to PP-18 with the Council's comments;

c) the Directors of the Bureaux:

– each within their field of competence, with advice from the relevant advisory group, to contribute to the work of EG-ITRs, recognizing that the ITU Telecommunication Standardization Sector (ITU‑T) has most of the work relevant to the ITRs;

– to submit the results of their work to EG-ITRs.

The World Telecommunication Standardization Assembly (Hammamet, 2016), considering ITU-T's acknowledged leadership in the work of review and revision of the ITRs, adopted Resolution 87 (Hammamet, 2016), on participation of ITU-T in the periodic review and revision of the ITRs, in which, recognizing in particular the importance of ITU-T study groups' input to the ITU-T contributory process to EG-ITRs, as appropriate and where necessary, it resolved to submit the result of those activities to EG-ITRs.

Proposals

In the light of the foregoing and of the resolutions on the matter adopted by PP-14, WCIT-12, WTSA-16 and the Council at its 2016 session, and taking account of previous experience with preparations for review and revision of the ITRs, the following is proposed:

1) Determine the structure of the EG-ITRs final report at the group's first meeting.

2) Consider as a basis the following structure for the EG-ITRs final report:

 a) The main text of the final report, comprising the following sections:

• Introduction

• Basic information

• The work of EG-ITRs

• Results of the work of EG-ITRs;

b) Annexes to the EG-ITRs final report.

3) Consolidate the content of the EG-ITRs final report so that it relates essentially to review and revision of the 2012 ITRs, including changes to and/or deletions of provisions from the 2012 ITRs and the addition of new provisions of the future ITRs.

4) Include the following information in the annexes to the EG-ITRs final report:

a) Annex 1: "Compilation of proposals received" from Member States and Sector Members, with suggestions for revision of the 2012 ITRs;

b) Annex 2: "Draft text containing the 2012 ITRs with suggestions for an article-by-article revision" (NOC, MOD, SUP, ADD), drawn up on the basis of the compilation of the contributions received from Member States and Sector Members;

c) Annex 3: "Compilation of the contributions received from Member States not party to the 2012 ITRs", with information on the difficulties experienced by those Member States and their "authorized operating agencies", and in particular:

– difficulties encountered by Member States and their "authorized operating agencies" in enforcing the provisions of the 2012 ITRs – with examples;

– difficulties encountered by Member States and their "authorized operating agencies" in adhering to the provisions of the 2012 ITRs – with examples;

– conflicts between provisions of the 2012 ITRs and commitments made by Member States in other international forums, as well as within the framework of economic and political unions – with examples;

– conflicts between the obligations of signatories to the 2012 ITRs and signatories to the 1988 ITRs with respect to implementation of the provisions of the 1988 and the 2012 ITRs – with examples.

d) Annex 4: Documents, prepared by the ITU General Secretariat, relating to review and revision of the ITRs, with a particular focus on legal and other issues. For example:

– legal analysis of the 2012 ITRs: procedure for and status of accession;

– reference information on the legal implications of the ITRs and their provisions;

– reference information on the legal instruments of international organizations as an expression of their normative authority;

– international agreements and the ITRs, including application of the ITRs within the context of the provisions of the Vienna Convention on the Law of Treaties of 23 May 1969;

– other material relating to information support for the work of EG-ITRs.

5) Invite interested study groups from the Union's three Sectors, particularly ITU-T, to send, through their respective advisory groups, contributions and liaison statements containing information and outcomes from their work that could be taken into account by EG-ITRs in its activities relating to review and revision of the 2012 ITRs. A draft liaison statement on behalf of EG-ITRs to the advisory groups and study groups of the three ITU Sectors is annexed to this contribution.

6) Where necessary, in the interests of optimizing the working time of EG-ITRs in the period between face-to-face meetings, appoint rapporteurs for specific matters (sections, chapters, etc.) to provide assistance in developing the text that will form the basis of the EG-ITRs final report, as well as in consolidating the texts submitted in the form of contributions by Member States, Sector Members and relevant ITU groups into a draft EG-ITRs final report. Any willingness on the part of EG-ITRs vice-chairmen to serve as chapter rapporteurs should be supported.

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