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| **Expert Group on the International Telecommunication Regulations (EG-ITRs)** |  |
| **Fourth meeting – Geneva, 12-13 April 2018**  |  |
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|  | **Document EG-ITRs 4/9-E** |
| **13 April 2018** |
| **Original: English** |
| REPORT OF THE Fourth MEETING of the expert group on the international telecommunication regulations (eg-itrs) |

1. **Introduction**

**1.1** On behalf of the Secretary-General, the Deputy Secretary-General Mr. Malcolm Johnson, welcomed the participants to the third meeting of EG-ITRs. He stressed the importance of the work that lies ahead of the Group and expressed his confidence that the meeting will demonstrate a spirit of compromise in delivering the results, mandated by PP14 and Council 2016.

**1.2** The Chairman thanked the Deputy Secretary-General and Directors for their support. The Chairman stressed the need for the Group to work together in the spirit of consensus and thanked the Vice Chairs for their valuable support and advice during the course of the work of this Group.

**2. Adoption of the Agenda and allocation of documents**

The Agenda ([EG-ITRs 4/1 (Rev.4)](https://www.itu.int/md/S18-CLEGITR4-C-0001/en)) was presented by the Chairman and adopted as presented.

**3. Discussion on Information Document** [**EG-ITRs-4/INF/2**](https://www.itu.int/md/S18-CLEGITR4-INF-0002/en)**: TSB Director's input on the ITRs**

* The TSB Director reported on the responses received from the ITU-T study groups regarding the ITRs.
* TSB Director pointed out that the document provided only factual information and did not contain any analysis on the implementation of the ITRs.
* Some members raised the relevance of the document as a reference for future work.
* The Vice Chairman of the Americas proposed compromise text for addition to the draft final report of the EG-ITRs in order to establish a reference to the input of the Director of TSB to the EG-ITRs, which was agreed to by the Group.

**4 Summary of Contributions to the fourth meeting**

The contributions, as submitted by the authors of the documents, are summarized as follows:

**4.1 Contribution** [**EG-ITRs 4/2**](https://www.itu.int/md/meetingdoc.asp?lang=en&parent=S18-CLEGITR4-C-0002) **from Côte d'Ivoire - Comments from African Region on Draft Report 2.0**

Noting the divergent views on the ITRs, the African region emphasizes its position as followed:

1. ITR is still relevant
2. The need to have one version of the ITR
3. While recognizing the need to revise the ITR, we need to have a consensus on the contentious issues before holding another WCIT

Council to consider the proposal from African group for an extended term and mandate for the expert group to be addressed to the next PP 18.

**4.2 Contribution** [**EG-ITRs 4/6**](https://www.itu.int/md/meetingdoc.asp?lang=en&parent=S18-CLEGITR4-C-0006) **from the Russian Federation - Proposals for clarification of published ITRs (Version 2012) for use by Member States and Telecommunication Operators**

The contribution states that ITRs 2012 are used by the operating agencies when entering into commercial contracts, resolving disputes, including in courts, and performing other relevant in law actions and face confusion with the two versions of the ITR 2012 published on the WCIT web-page at <https://www.itu.int/en/wcit-12/Documents/final-acts-wcit-12.pdf> and on the ITU publications page at <https://www.itu.int/pub/S-CONF-WCIT-2012/en> (which also requires registration/authorization).

Taking into account that the ITRs is the international legally binding document and the use of different versions of the same treaty leads to legal collisions and significantly complicates consideration and resolution of disputes between telecommunication operators, the contribution requested the Legal Adviser to clarify which version of the ITRs (2012) should be used by telecommunication operators for their relevant in law actions, as well as the ITU Secretariat to ensure free access to the document without registration.

**4.3 Contribution** [**EG-ITRs 4/7**](https://www.itu.int/md/meetingdoc.asp?lang=en&parent=S18-CLEGITR4-C-0007) **from Bell Mobility (Canada); KDDI, NTT DOCOMO Inc. (Japan); BT (United Kingdom); AT&T, Verizon (United States of America) - Review of the 2012 ITRs**

Contribution EG-ITRs-4/7 was submitted by Bell Mobility (Canada); KDDI, NTT DOCOMO Inc. (Japan); BT (United Kingdom); AT&T, Verizon (United States of America). Together, these companies exchange traffic with other operators to provide international telecommunication services to more than 220 UN recognized countries and territories. The document expressed the following key points based on the operators’ collective operational experience: i) the ITRs are no longer applicable to or relevant in today’s highly competitive international telecommunications market as the companies exchange virtually all international traffic globally through commercially-negotiated agreements, and any traffic settled under the ITRs is negligible; ii) the continued successful deployment and use of telecommunication infrastructure and services worldwide is mostly realized through policy frameworks that support ongoing innovation, market-based competition and private sector investment, rather than through a treaty instrument; and, iii) to date, the companies have not experienced any practical obstacles resulting from the implementation of the 2012 ITRs. The contributors also expressed their sincere appreciation to the ITR-EG Chairman and Regional Vice Chairmen for their excellent leadership in carrying out the work of the Group.

**4.4 Contribution** [**EG-ITRs 4/8**](https://www.itu.int/md/meetingdoc.asp?lang=en&parent=S18-CLEGITR4-C-0008) **from Beltelecom (Belarus), MegaFon (Russian Federation), Kazakhtelecom (Kazakhstan), Rostelecom (Russian Federation); Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan, Uzbekistan - Application of the International Telecommunication Regulations and relevant recommendations of the ITU-T sector**

The Administrations of RCC/CIS Member States carried out a survey of telecommunication operators concerning the application of the provisions ITRs and of relevant ITU-T Recommendations. Result of the survey:

- telecommunication operators in RCC/CIS countries, in their relations with foreign partners, apply individual provisions of the ITRs, either by explicit reference to specific points in the ITRs or indirectly, by incorporation of such provisions in commercial agreements without a reference to the ITRs, including cases, when there are no such provisions in the national legislation of the telecommunication operator’s country.

- operators noted a number of issues that could be covered by the ITRs in future in the light of modern trends;

- operators noted it difficult to establishing any difficulties and impediments with regard to the application of the 1988 and 2012 ITRs in relations with international partners applying different versions of the ITRs, given the lack of sufficient time to assess application practice. However, these operators noted that they foresaw potential future risks, and noted that work would be needed on the collection of data globally on a regular basis.

Some administrations also noted that issues had already arisen during the provisional application period for the 2012 ITRs, and foresaw potential difficulties/conflicts in the continued application of the 1988 and 2012 ITRs.

**4.5** [**Contribution to Council 2018**](https://www.itu.int/md/S18-CL-C-0092/en) **from the Federative Republic of Brazil, Canada, Mexico, Paraguay and the United States of America - Views on a future World Conference on International Telecommunications**

The contribution highlights the lack of consensus in all three areas under review by EG-ITRs: the applicability of the ITRs; legal analysis of the ITRs; and potential conflicts between the 1988 and 2012 versions of the ITRs. Considering the lack of consensus, and on the basis of specific contributions presented to EG-ITRs, the Groups' report to Council should include the costs (i.e., money and opportunity costs) and risks (e.g., loss of ITU's reputation and prestige, disagreements and further fracture among members, approval of a third conflicting version of the ITRs) associated with holding a WCIT to revise the ITRs in the near future.

**5. Discussions on Contributions to the fourth meeting**

The Chairman proposed that (a) the contributions providing specific edits to the final report would be discussed while going through document [TD 1-GEN](https://www.itu.int/md/meetingdoc.asp?lang=en&parent=S18-CLEGITR4-180412-TD-0001) compiling all proposed edits to Draft 2.0 of the final report (see item 6 of the meeting [agenda](https://www.itu.int/md/meetingdoc.asp?lang=en&parent=S18-CLEGITR4-C-0001)); (b) all other contributions to the meeting would be discussed individually following the order of the agenda. Discussions on item (b) are reflected below:

**5.1 Discussion on Contribution** [**EG-ITRs 4/6**](https://www.itu.int/md/meetingdoc.asp?lang=en&parent=S18-CLEGITR4-C-0006) **from the Russian Federation - Proposals for clarification of published ITRs (Version 2012) for use by Member States and Telecommunication Operators**

* The ITU Legal Advisor was invited to provide clarification with regard to the questions raised in the contribution. He confirmed that the Final Acts of April 2013 are the official version of the 2012 ITRs and that the numbering in the official version is the one to be applied.
* With regard to access to the electronic version of the Final Acts, the Legal Advisor confirmed that access is public and free of charge. He further clarified that for statistical purposes readers are asked to provide some general information through an online form before downloading the electronic document.
* The proponent thanked the Legal Advisor and suggested that ITU Secretariat update the ITU Website to make it clear that the Final Acts of April 2013 is the official version. The Chairman requested the support of the ITU Secretariat to look into the issue.

**5.2 Discussion on Contribution** [**EG-ITRs 4/2**](https://www.itu.int/md/meetingdoc.asp?lang=en&parent=S18-CLEGITR4-C-0002) **from Côte d'Ivoire - Comments from African Region on Draft Report 2.0**

* Some Members supported the view that, at this moment, there are no conditions to hold a new WCIT.
* Some Members supported continuing the work of the Expert Group with revised Terms of Reference, which would enable further discussion on contentious issues with regard to the implementation of the ITRs.
* These members support the regular review/revision of the ITRs given the current trends in the telecommunications/ICT market of the introduction of new technologies.
* Some other Members highlighted the current lack of consensus around a possible revision of the ITRs and opposed the continuation of the work of the Group.
* These members further referred to previous comments to the effect that no conflicts had been found between the two versions of the ITRs.
* It is understood by the group that the issues raised by this contribution could also be addressed by Council or by the Plenipotentiary Conference if needed.

**5.3 Discussion on Contribution** [**EG-ITRs 4/7**](https://www.itu.int/md/meetingdoc.asp?lang=en&parent=S18-CLEGITR4-C-0007) **from Bell Mobility (Canada); KDDI, NTT DOCOMO Inc. (Japan); BT (United Kingdom); AT&T, Verizon (United States of America) - Review of the 2012 ITRs**

* Some Members supported the contribution, reiterating the view that although operators continue to work within a certain regulatory framework, the ITRs are not relevant in the case of commercially-negotiated agreements.
* Other Members expressed the view that ITRs are applicable, even if they are not explicitly referenced in the relevant agreements, and that even in case of commercially-negotiated agreements, these are enabled under Article 9 of the 1988 ITRs.

**5.4 Discussion on Contribution** [**EG-ITRs 4/8**](https://www.itu.int/md/meetingdoc.asp?lang=en&parent=S18-CLEGITR4-C-0008) **from** **Beltelecom (Belarus), MegaFon (Russian Federation), Kazakhtelecom (Kazakhstan), Rostelecom (Russian Federation); Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan, Uzbekistan - Application of the International Telecommunication Regulations and relevant recommendations of the ITU-T sector**

* Some Members expressed the view that the proposed additions to the Final Report of the EG-ITRs were already reflected in different parts of the report. One Member was of the view that the survey presented by the proponents did not identify concrete challenges with regard to the application of ITRs.
* Some other Members considered that some of the presented points were not reflected in the draft final report and suggested that the contributors come back with a concise text for addition to the final report.
* The Chairman suggested deferring the discussion to agenda item 6 on the draft final report.

**5.5** **Discussion on** [**Contribution to Council 2018**](https://www.itu.int/md/S18-CL-C-0092/en) **from the Federative Republic of Brazil, Canada, Mexico, Paraguay and the United States of America - Views on a future World Conference on International Telecommunications**

* The contribution was presented for the information of the Group. The Group agreed that discussion on the substance of the document will take place in the upcoming Council 2018 meeting.

**6 Discussion on the** **Draft Final Report of the EG-ITRs**

* A compilation document was presented to the Group containing edits, comments and new text proposals submitted by members on [Draft 2.0 of the Final Report of the Expert Group to Council 2018](https://www.itu.int/md/S18-CLEGITRREP-C-0001/en).
* The Group went through the Draft 2.0 section by section. The Chairman invited those who had submitted comments on the report to present their comments to the Group. Each section as well as the comments received were then discussed in detail.

**7. Actions to be taken**

The Final Report of EG-ITRs was agreed by consensus. The Group agreed to transmit the Final Report to Council 2018 for examination and submission to the 2018 Plenipotentiary Conference with the Council’s comments.

**8. Closing of the Meeting**

In closing, the Chairman thanked all the ITU Member States and Sector Members who made contributions and participated in the work of the Expert Group (including those who participated remotely), the Vice-Chairmen, and ITU Elected Officials and the Secretariat for their efficient assistance during the meeting.

The Group thanked the Chairman, Vice-Chairmen and Secretariat for their effective organization and management of the Group. The Group also thanked the interpreters and the remote moderator.

**Chairman: Mr. Fernando Borjón (Mexico)**