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| **Expert Group on the InternationalTelecommunication Regulations (EG-ITRs)Fifth meeting – Virtual meeting, 30 September-1 October 2021** |  |
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|  | **Document EG-ITRs-5/10-E** |
|  | **22 October 2021** |
|  | **English only** |

REPORT OF THE FIFTH VIRTUAL MEETING OF
THE EXPERT GROUP ON THE INTERNATIONAL TELECOMMUNICATION REGULATIONS
(EG-ITRs)

**1 Introductory Remarks**

**1.1** The Deputy Secretary-General, Mr. Malcolm Johnson, welcomed members to the fifth meeting of the EG-ITRs. He commended progress made by the Group towards achieving its mandate by carrying out the provision-by-provision review of the ITRs over the past two years. He further noted that, as the only global treaty to establish general principles relating to the provision and operation of international telecommunications, the ITRs have helped promote the efficiency, usefulness, and availability of international telecommunication networks, infrastructure and services throughout the world. He wished the EG-ITRs every success with finalizing the results of the provision-by-provision review of the ITRs and reiterated the assistance and availability of the Secretariat to support the work of the Group, as needed.

**1.2** The Chairman thanked the Deputy Secretary-General for his presence and support for the meeting. Given its virtual format and the reduced time, he stressed the need for the Group to work together effectively, efficiently and in the spirit of consensus to discuss the overall observations on the provision-by-provision review of the ITRs as well as the draft of the final report of the EG-ITRs that will be presented to Council 2022, in accordance with the agreed Work Plan of the Group. He also thanked his Vice-Chairmen for their support and commitment to furthering the work of the Group.

**2 Adoption of the Agenda**

**2.1** The Agenda ([**EG-ITRs-5/1-E (Rev. 1)**](https://www.itu.int/md/S21-EGITR5-C-0001/en)) was presented by the Chairman.

The Vice-Chair, Americas suggested that Agenda Item 5 (Discussion on Contributions received on the first draft of the final report to Council 2022) may need to be revised given that no contributions were received on the first draft of the final report to Council 2022. Accordingly, Agenda Item 5 was updated as follows: Discussion on the first draft of the final report to Council 2022.

The Vice-Chair, CIS Region, proposed to include reference to the [Information Document](https://www.itu.int/md/S21-EGITR5-INF-0001/en) submitted on behalf of the Director of the Standardization Bureau (TSB) for the consideration of the Group under Agenda Item 3. INFDOC 1 was added to Agenda Item 3.

The Agenda was adopted.

**3. Feedback from the Directors of the Bureaux**

**3.1** Pursuant to [Council Resolution 1379 (Mod. 2019)](https://www.itu.int/md/S19-CL-C-0139/en) which instructs the Directors of the Bureaux “*each within their field of competence, with advice from the relevant advisory group, to contribute to the work of the Group, recognizing that the ITU Telecommunication Standardization Sector has most of the work relevant to the ITRs*”, and following the invitation of the EG-ITRs Chairman to the Directors of the Bureaux to “*seek advice from the relevant advisory group to contribute to the work of the EG-ITR Group, taking into account the agreed work plan of EG-ITRs in Annex 1*”, the Directors and/or their representatives from the Bureaux were present at this meeting to provide feedback to the Group.

**3.2** The Director of the ITU Radiocommunication Bureau (BR), Mr. Mario Maniewicz, emphasized that he considered that it was not up to him to give an opinion on matters not related to the Radiocommunication Sector such as the applicability, essentiality, or future of the ITRs. He further stressed that his remarks focus on a single aspect in relation to the ITRs, namely, the question of which of ITU’s two administrative regulations, ITRs and Radio Regulations, would prevail in case of any conflict or inconsistency between their provisions. He highlighted that there is no such hierarchy established in Article 4 of the ITU Constitution, and that provision 12 (Article 1.8) of the 1988 ITRs, which directly corresponds to provision 15 (Article 1.8) of the 2012 ITRs, is the only treaty-level provision that helps resolve any potential conflict that may arise if there is an inconsistency between the administrative regulations. Accordingly, he emphasized the need to retain this provision in future versions of the ITRs, if any.

**3.3** The Director of the Development Bureau (BDT), Ms. Doreen Bogdan-Martin, noted the updates provided by her at the fourth meeting of the Group on the discussions at Telecommunication Development Advisory Group (TDAG) relating to the ITRs. She assured the Group of BDT’s continued support and highlighted the upcoming TDAG meeting in November, stating that she will return to the sixth meeting of the EG-ITRs to provide further updates on discussions related to the ITRs at the TDAG meeting, if any.

**3.4** The Chief, Study Group Department, Standardization Bureau (TSB), Mr. Bilel Jamoussi, introduced the [Information Document](https://www.itu.int/md/S21-EGITR5-INF-0001/en) submitted on behalf of the Director of the Standardization Bureau (TSB), Mr. Chaesub Lee, for the consideration of the Group. He noted that this document contains the responses received by the Telecommunication Standardisation Advisory Group (TSAG) from the relevant ITU-T Study Groups on the ITRs as well as some updates from the TSB Secretariat on the list of recommendations identified in the document, emphasizing that the ITRs are particularly relevant to the work of Study Groups 2 and 3.

**4 Discussion on Contributions received on the** [**Examination Table**](https://www.itu.int/md/S21-EGITR5-210930-DL-0001/en) **(completed based on the Work Plan agreed in the first meeting of the EG-ITRs)**

**4.1 Contributions:**

**4.1.1** [**EG-ITRs-5/2**](https://www.itu.int/md/S21-EGITR5-C-0002/en) **from Russian Federation - ITRs - Development areas, application assessments, best practice overview**

It is proposed that the digital identification and/or verification of users, products and services be considered as one area for the future development of the ITRs.

Within the framework of EG-ITRs, it is proposed to start compiling an overview of best practices on the application of the ITRs, or on recommendations on the application of solutions intended to fulfil the requirements (current and future) of the ITRs. Such an overview could take the form of a technical report, an annex or a draft plan.

**4.1.2** [**EG-ITRs-5/4**](https://www.itu.int/md/S21-EGITR5-C-0004/en) **from the People’s Republic of China - Recommendations of the Next Step of the Expert Group on the International Telecommunication Regulations (EG-ITRs)**

China would like to put forward the following recommendations for the next step of the EG-ITRs:

1. It is proposed that the outcome of the review of the first four EG-ITRS meetings be fully recognized and utilized. The EG-ITRs has completed the provision-by-provision review of the 2012 edition of the ITRs and has formed the opinions on each provision in terms of “applicability in fostering provision and development of networks and services” and “flexibility to accommodate new trends and emergent issues”. The Summary Outcome, which was filled as agreed by members, is the fundamental basis for all parties to discuss their overall observations on the 2012 edition of the ITRs and an important foundation for the EG-ITRS to carry out the next-step work.

2. Respect the patterns of technological development and promote the development of rules in parallel. ITU Council Resolution 1379 (Modified 2019) states the need to take into account new trends in telecommunications/ICT and emerging issues in international telecommunications/ICT environment. It is proposed that the parties look at the review of ITRs in a spirit of seeking truth from facts and from the perspective to promoting the development of the international telecommunications/ICTs to, fully understand new trends in telecommunications/ICT and emerging issues that have occurred or may occur as a result, conduct accurate analysis on the applicability of ITRs in fostering provision and development of networks and services, and the flexibility of ITRs to accommodate new trends and emergent issues, to make objective and reasonable judgments.

3. Identify specific differences and put forward effective solutions. New trends and emerging issues in international telecommunication /ICT need to be addressed and resolved through international rules agreed by the international community. Legal rules always fall behind, which is determined by their own nature, and need to be constantly improved with the changes of their regulated objects and adjusted legal relationship. The same is true to the ITRs. In light of the examinations conducted so far, there were basically three views on the vast majority of the provisions: some members were of the view that there was no need to change the provision for it was applicable and flexible; some members expressed the view that the provision was not necessary as it was no longer applicable or flexible; other members suggested that the provision needed to be updated to reflect changes in the provision of telecommunications /ICT services to end users. We therefore propose that, based on the Examination Table, especially the Summary Outcome, the parties put forward their specific options on whether and how to amend the relevant provisions of the ITRs, which should be included in the overall observations on the 2012 edition of the ITRs and the report of the EG-ITRs to be submitted to Council 2022.

**4.1.3** [**EG-ITRs-5/5**](https://www.itu.int/md/S21-EGITR5-C-0005/en)  **from the Czech Republic, Estonia, Latvia, the Netherlands, Sweden and the United Kingdom - Overall observations based on the provision-by-provision examination**

In summary:

● on each provision of the 2012 ITRs there is a range of views and no consensus;

● we propose that the Examination Table that has been included in the Progress Reports is also included in the Final Report and the Final Report clearly highlights the lack of consensus;

● we propose that the findings from this Expert Group on the ITRs should reference the work of the previous Expert Group; and

● we see no difficulties caused by the existence of two sets of ITRs: in fact, investment in and access to telecommunications services have continued to advance.

**4.1.4** [**EG-ITRs-5/6**](https://www.itu.int/md/S21-EGITR5-C-0006/en) **from the Russian Federation - Further steps in the implementation of Resolution 146 (rev. Dubai, 2018) of the plenipotentiary conference and Resolution 1379 (modified 2019) of the ITU Council**

This contribution calls on ITU Member States and Sector Members to demonstrably make the meaningful efforts required to fulfil resolves 2 of Resolution 146 (Rev. Dubai, 2018) of the Plenipotentiary Conference and achieve consensus on the way forward in respect of the ITRs.

Concluding the current mandate of EG-ITRs with a simple binary choice between “the ITRs are needed and are applicable” and “the ITRs are not needed and are not applicable” is unacceptable and must not be the outcome of the current mandate of EG-ITRs. This outcome was already put forward under its previous mandate.

it is proposed to consider two possible ways of resolving the existing disagreements at this time and identifying the preferred option.

The first option is for all Member States to accede to the International Telecommunication Regulations (Rev. Dubai, 2012).

The second option is for a partial or full revision of the ITRs with a view to the adoption of a new version of the treaty by consensus.

In the case of a partial revision, a new consensus may be achieved by identifying and then removing certain provisions of the ITRs that are particularly difficult for Member States to apply. This would enable the Union and Member States to save resources by holding a “short” world conference on international telecommunications.

**4.1.5** [**EG-ITRs-5/7**](https://www.itu.int/md/S21-EGITR5-C-0007/en)  **from the Russian Federation - Russian Federation - Further steps in the implementation of Resolution 146 (rev. Dubai, 2018) of the plenipotentiary conference and Resolution 1379 (modified 2019) of the ITU Council with a view to achieving consensus in respect of the International Telecommunication Regulations**

Given the fact that not all ITU Member States and Sector Members currently participate in this series of EG-ITRs meetings (no more than one-fifth of overall ITU membership) and that EG-ITRs continues to be fixated on two polarizing views on the ITRs and is in need of additional input from all Member States and Sector Members of the Union in order to achieve consensus on the way forward in respect of the ITRs and fulfil its mandate, it is proposed that the ITU Secretary-General consult with all administrations and ITU Sector Members by correspondence on their preferred way forward in respect of the ITRs.

In particular, the Secretary-General could, based on clarifications received from the ITU Legal Adviser and on the binding nature of the ITRs, ask Member States and Sector Members for their preferred choice between the following two options for achieving consensus on the way forward in respect of the ITRs, namely:

– the accession of all Member States to the International Telecommunication Regulations (Rev. Dubai, 2012).

– the partial or full revision of the ITRs with a view to the adoption of a new version of the treaty by consensus.

**4.1.6** [**EG-ITRs-5/8**](https://www.itu.int/md/S21-EGITR5-C-0008/en) **from Australia, Canada, and the United States of America - Overall observations based on the provision-by-provision examination of the 2012 International Telecommunication Regulations**

We commend the EG-ITRs on successfully completing the provision-by-provision examination of the 2012 ITRs, and we thank the EG-ITRs Chairman, Mr. Lwando Bbuku (Zambia), for his able leadership.

In our view, however, it remains unclear how a static, sector-specific treaty with limited real-world applicability could help foster the development of international telecommunication/ICT services and networks, or prove flexible enough to accommodate new trends and emerging issues in the international telecommunications/ICT environment. As the EG-ITRs prepares its final report to Council 2022, we note the continued lack of consensus to this end.

**4.1.7** [**EG-ITRs-5/9**](https://www.itu.int/md/S21-EGITR5-C-0009/en) **from AT&T, Bell Mobility Canada, KDDI, NTT DOCOMO, Telefonica, Verizon - Sector Member contribution on overall observations based on the provision-by-provision examination of the 2012 International Telecommunication Regulations**

We appreciate the opportunity to share our observations on the provision-by-provision examination of the 2012 ITRs and reiterate the following perspectives:

• It is our view that the ITRs are not applicable to fostering the development of international networks and services, and not flexible enough to accommodate today’s dynamic marketplace and evolving technological landscape.

• Treaty provisions cannot keep pace with the rapid speed of technology development and innovation and become quickly outdated. Moreover, efforts to address technical issues in a treaty instrument may have the unintended consequence of impeding network operators’ ability to quickly respond to changing network environments.

• The continued successful deployment and use of telecommunication infrastructure and services worldwide is mostly realized through flexible policy frameworks that support ongoing innovation, market-based competition, mutually-agreed commercial agreements between providers, and private sector investment, and not through a treaty instrument such as the ITRs.

Based on discussions during the previous EG-ITRs meetings and as reflected in the Examination Table, we recognize that some EG-ITRs participants share our views, while others do not. Given these divergent positions it is not clear to us how any further discussions regarding the applicability and flexibility, or review of the ITRs, would lead to a different result. For that reason, we would not see a benefit in dedicating additional ITU resources to conduct future work on this matter once this EG-ITRs has fulfilled its Terms of Reference.

**4.2 Discussions on the Contributions**

**4.2.1** With reference to the contributions received, the mandate and scope of work for the EG-ITRs was discussed.

**4.2.2** Some members were of the view that, in addition to the provision-by-provision review of the ITRs, the mandate of the Group includes reaching some agreement on a way forward in respect of the ITRs, including proposing any revisions/amendments to the ITRs as may be necessary to update them, taking into account new trends in telecommunications/ICT and emerging issues in international telecommunications/ICT environment. These members cited [PP Resolution 146 (Rev. Dubai 2018)](https://www.itu.int/en/council/Documents/basic-texts/RES-146-E.pdf) and [Council Resolution 1379 (Mod. 2019)](https://www.itu.int/md/S19-CL-C-0139/en) which states that “*an Expert Group on the International Telecommunication Regulations (EG-ITRs), open to all Member States and Sector Members, be reconvened to conduct a comprehensive review of the ITRs with a view to achieving consensus on the way forward in respect of the ITRs, with the Terms of Reference shown in Annex 1 of this Resolution*.”

 Some members were of the view that the mandate of the Group is clearly set out in the Terms of Reference in Council Resolution 1379 (Mod. 2019) which focus on undertaking a “*provision-by-provision examination of the ITRs, focusing on the 2012 ITRs, taking into account new trends in telecommunications/ICT and emerging issues in international telecommunications/ICT environment*” and submitting a report reflecting all views on the ITRs review to Council 2022 for examination and submission to the 2022 Plenipotentiary Conference (PP) with the Council’s comments. These members were of the view that the Group has achieved its mandate by completing a provision-by-provision review of the ITRs, and that a factual report of this review, the Examination Table, and any related discussions is sufficient for the purpose of reporting to Council 2022, while also stating that there is no consensus within the Group on the way forward. Discussions on the way forward may be left up to Council and ITU Plenipotentiary Conference 2022.

**4.2.3** Some members were of the opinion that the ITRs continue to remain relevant and applicable, and are currently in use by operators within their region. They suggested that the current difficulties caused by having two different versions of the treaties can only be resolved by harmonizing the two treaties, and by updating the ITRs to reflect the new trends in the telecommunication/ICT environment. These members proposed finding ways to reach consensus on the way forward in this regard, including by discussing specific areas of concern and proposing revisions/additions, as the case may be, to address such concerns.

 Some members were of the opinion that the existence of two versions of the ITRs negatively impacts the image of the ITU as the UN agency responsible for telecommunications/ICTs, and cancelling the ITRs is better for the image of ITU than having two sets of the treaty. These members were of the view that harmonizing views to achieving one set of the treaty is crucial and possible, just as Members were able to find compromised solutions in other issues. It was also suggested that Members who believe that ITRs are no longer relevant may make a proposal on the way forward, including abrogating the treaty.

 Some members were of the opinion that the ITRs are no longer relevant or applicable, and are not in use within their region. The development of telecommunications/ICTs has flourished regardless of the application of the 2012 ITRs. They further stated that the participation by Member States and Sector Members in this Group was low, highlighting the fact that these treaties are no longer useful for most countries and operators.

**4.2.4** With respect to overall observations on the [Examination Table as set out in DL 1](https://www.itu.int/md/S21-EGITR5-210930-DL-0001/en), members agreed that the views reflected therein were representative of the different perspectives on the ITRs within the Group.

 Some members were of the view that the different opinions captured in the Examination Table evidence the need to update the ITRs, while other members were of the view that the Examination Table has accurately captured the different views of the Group regarding the applicability and flexibility of the ITRs indicating the lack of consensus on the usefulness and way forward in respect of the ITRs.

**4.2.5** Members agreed that any report to Council from the Group should reflect all the discussions and positions within the Group, as well as reference the different contributions received.

**5 Discussion on Contributions received on the first draft of the final report to Council 2022**

**5.1** The Group discussed their views on [DL 2 - Draft Final report of the Expert Group on the International Telecommunication Regulations (EG-ITRS)](https://www.itu.int/md/S21-EGITR5-210930-DL-0002/en) that will be presented to Council 2022 for examination and submission to the 2022 Plenipotentiary Conference with the Council’s comments.

**5.2** Members broadly agreed on the structure of the Final Report of EG-ITRs to Council 2022 (Council Report) and that it should reflect the different positions and perspectives expressed by the Group on the ITRs and the way forward, the various meeting reports of the EG-ITRs and the contributions received, as well as the consolidated Examination Table which is to be attached as an Annex.

**5.3** Some members suggested including an Appendix to the Council Report or adding an additional column to the Examination Table which sets out all the inputs received from members of the EG-ITRs. Some members suggested adding summaries of the specific proposals received on the way forward with respect to the ITRs under Section 4 of the Council Report.

 Some members also, echoed and reiterated the importance of reflecting, in the final report of the Expert Group on the International Telecommunication Regulations (EG-ITRs) to ITU Council 2022, views expressed, during EG-ITRs meetings, on the various contributions received, in line with RULE 12, point N° 5 of the Rules of Procedure of the Council of the International Telecommunication Union. This will allow the Council to have the big picture of the views expressed and adequately deliberate to the Plenipotentiary Conference for an appropriate way forward.

Some members were of the opinion that the Council Report will be referencing all the meeting reports which contain summaries and links to all the contributions received for that meeting as well as an overview of the discussions in that meeting.

It was decided that a cluster of links for all the contributions received would be included in the Council Report under the corresponding sections that summarize each meeting of the EG-ITRs and hyperlink the meeting report.

**5.4** Members agreed that all references to [PP Resolution 146 (Rev. Dubai 2018)](https://www.itu.int/en/council/Documents/basic-texts/RES-146-E.pdf) and [Council Resolution 1379 (Mod. 2019)](https://www.itu.int/md/S19-CL-C-0139/en) in the Council Report would be hyperlinked. They also agreed to include in the Council Report, where relevant, the contributions submitted by the Directors of the Bureaux to the various meetings of the EG-ITRs.

**6 Discussion on any other Contributions received**

There were no discussions under this Agenda Item.

**7 Next Steps**

**7.1** The Chairman presented [DL 3 on Next Steps](https://www.itu.int/md/S21-EGITR5-210930-DL-0003/en) which sets out the procedure for completing the Meeting Report as well as for developing a draft of the Council Report.

**7.2** The Meeting Report will be posted online by 22 October 2021, following the process previously adopted by the EG-ITRs for this purpose. The draft Council Report will be shared with all the participants of the fifth meeting of the EG-ITRs, as well as with the Vice-Chairs, for regional consultation on 12 November, and, following the process set out in DL 3 (Rev. 1), it will be published on 13 December as an input document for the sixth meeting of the EG-ITRs.

**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, the Vice-Chairmen, and ITU Elected Officials, and the Secretariat and the interpreters for their efficient assistance during the meeting.

The Group thanked the Chairman and Secretariat for their effective organization and management of the Group.

**Chairman: Mr. Lwando Bbuku (Zambia)**

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