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| **Expert Group on the International Telecommunication Regulations (EG-ITRs)** |  |
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| possible future steps towards achieving consensus on a single version of the international telecommunication regulations | |

# 1 Introduction

This contribution provides an article-by-article overview of the versions of the International Telecommunication Regulations (ITRs), conducted by the member administrations of the Regional Commonwealth in the field of Communications, and presented at the 2018 Plenipotentiary Conference, taking into account the terms of reference of the Expert Group on the ITRs (EG-ITRs) and proposals for a possible way forward to achieving consensus on a single version of the ITRs.

# 2 Differences between the 1988 and 2012 versions of the ITRs

The table contained in Annex 1 sets out the main differences between the 1988 and 2012 versions of the ITRs.

Having examined the differences between the two versions, it is clear that the changes introduced with the adoption of the 2012 ITRs were simply meant to update the previous 1988 version and to include issues of concern to Member States that had not existed in 1988. The new provisions were adopted with a view to amplifying and complementing the articles contained in the 1988 version.

# 3 Proposal

Given the complementary nature of the 1988 and 2012 versions of the ITRs and the resulting problems relating to their application for Member States and their authorized operating agencies, which are parties to the different versions of the regulations (1988 and 2012), it would seem appropriate to discuss what should be included in an acceptable text combining the provisions of both treaties, with a view to merging the two versions of the ITRs in the future. This should allow those States which did not sign the 2012 ITRs to sign the amended consensus version.

ANNEX 1

Article-by-article comparison of the 1988 and 2012 ITRs

Note:

In the table below, the following conventions apply:

– provisions containing editorial corrections are shown in *italics*;

– new provisions contained in the 2012 ITRs are shown in ***bold italics.***

| 1988 ITRs | 2012 ITRs |
| --- | --- |
| **PREAMBLE**  **1** While the sovereign right of each country to regulate its telecommunications is fully recognized, the provisions of the present Regulations supplement the International Telecommunication Convention, with a view to attaining the purposes of the International Telecommunication Union in promoting the development of telecommunication services and their most efficient operation while harmonizing the development of facilities for world-wide telecommunications. | **PREAMBLE**  **1** While the sovereign right of each State to regulate its telecommunications is fully recognized, the provisions of the present International Telecommunication Regulations (hereafter referred to as "Regulations") complement the Constitution and the Convention of the International Telecommunication Union, with a view to attaining the purposes of the International Telecommunication Union in promoting the development of telecommunication services and their most efficient operation while harmonizing the development of facilities for worldwide telecommunications.  **2 *Member States affirm their commitment to implement these Regulations in a manner that respects and upholds their human rights obligations.***  **3 *These Regulations recognize the right of access of Member States to international telecommunication services.*** |
| **Comment:** No. 2 in the Preamble of the 2012 ITRs is not technical or regulatory, and affirms the need to respect human rights such as privacy of communications, the right to free transmission of data, and protection of personal data. No. 3 of the 2012 ITRs reflects the spirit and the letter of the ITU Constitution and Convention. | |
| Article 1  Purpose and Scope of the Regulations  2  1.1 *a)* These Regulations establish general principles which relate to the provision and operation of international telecommunication services offered to the public as well as to the underlying international telecommunication transport means used to provide such services. They also set rules applicable to administrations.\*  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \* or recognized private operating agency(ies) | ARTICLE 1  Purpose and Scope of the Regulations  **4**1.1 *a)* These Regulations establish general principles which relate to the provision and operation of international telecommunication services offered to the public as well as to the underlying international telecommunication transport means used to provide such services. ***These Regulations do not address the content-related aspects of telecommunications.***  **5***b)* These Regulations also contain provisions applicable to those operating agencies, authorized or recognized by a Member State, to establish, operate and engage in international telecommunications services to the public, hereinafter referred as "*authorized operating agencies*". |
| **Comment:** No. 5 *b)* of the 2012 ITRs reflects the changes that have been occurring in telecommunications in recent decades. At the present time, international telecommunication services are provided not only by recognized operating agencies but also by many private operators that have the relevant licences but are not “recognized operating agencies”. The 1988 ITRs more or less excludes operators not included on the “recognized” list from the international telecommunication system. This comment applies to all ITR provisions in which the term “private operating agencies” is used. | |
| **6**  1.4 References to *CCITT Recommendations and Instructions* in these Regulations are not to be taken as giving to those Recommendations and Instructions the same legal status as the Regulations. | **9**  1.4 References to Recommendations *of the ITU Telecommunication Standardization Sector (ITU-T)* in these Regulations are not to be taken as giving to those Recommendations the same legal status as these Regulations. |
| **Comment**: Updating an outdated provision. | |
| **7**  1.5 Within the framework of the present Regulations, the provision and operation of international telecommunication services *in each relation is pursuant to mutual agreement between administrations*\*.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \* or recognized private operating agency(ies). | 1.5 Within the framework of these Regulations, the provision and operation of international telecommunication services in each relation is *pursuant to mutual agreement between authorized operating agencies*. |
| **Comment**: Updating an outdated provision. | |
| **8**  1.6 In implementing the principles of these Regulations, administrations\* should comply with, to the greatest extent practicable, the relevant CCITT Recommendations, including any Instructions forming part of or derived from these Recommendations. | **11**  1.6 In implementing the principles of these Regulations, authorized operating agencies should comply with, to the greatest extent practicable, the relevant ITU-T Recommendations. |
| **Comment**: Updating an outdated provision. | |
| **9**  1.7  *a)* These Regulations recognize the right of any Member, subject to national law and should it decide to do so, to require that administrations and *private operating agencies*, which operate in its territory and provide an international telecommunication service to the public, be authorized by that Member.  **10**  b) The Member concerned shall, as appropriate, encourage the application of relevant CCITT Recommendations by such service providers.  **11**  с) The Members, where appropriate, shall cooperate in implementing the International Telecommunication Regulations. | **12**  1.7  *a)* These Regulations recognize the right of any Member State, subject to national law and should it decide to do so, to require that *authorized operating agencies* which operate in its territory and provide an international telecommunication service to the public be authorized by that Member State.  **13**  *b)* The Member State concerned shall, as appropriate, encourage the application of relevant ITU‑T Recommendations by such service providers.  **14**  *c)* The Member States, where appropriate, shall cooperate in implementing these Regulations. |
| ARTICLE 2  Definitions  **…**  **15**  2.2 *International telecommunication service:* The offering of a telecommunication capability between telecommunication offices or stations of any nature that are in or belong to different countries. | ARTICLE 2  Definitions  **...**  **18**  2.3  *International telecommunication service:* The offering of a telecommunication capability between telecommunication offices or stations of any nature that are in or belong to different countries. |
| **Comment**: The definitions in the English versions of the 1988 and 2012 ITRs are identical. The Russian version of the 2012 ITRs correctly translates the term "service" as "услуга". | |
| **16**  2.3 *Government telecommunication* | **19**  2.4 *Government telecommunications* |
| **17**  2.4  Service telecommunication  A telecommunication that relates to public international telecommunications and that is exchanged among the following:  – administrations;  – *recognized private operating agencies*;  ... | **20**  2.5   *Service telecommunication*:  A telecommunication that relates to public international telecommunications and that is exchanged among the following:  – Member States;  – *authorized operating agencies*; and  … |
| **Comment**: Any term used in the ITRs must be defined, and this was done in the 2012 ITRs.  The absence of a definition in the 1988 ITRs results in a lack of clarity in the settlement of legal disputes. | |
| **18**  2.5 *Privilege telecommunication* | Definition removed. |
| **22**  2.7 *Relation*  **25**  2.8 *Accounting rate:* The rate agreed between administrations\* in a given relation that is used for the establishment of international accounts.  **26**  2.9 *Collection charge:* The charge established and collected by an administration\* from its customers for the use of an international telecommunication service.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \* or recognized private operating agency(ies). | **22**2.7 *Relation*  **25**2.8 *Accounting rate:* The rate agreed between authorized operating agencies, in a given relation that is used for the establishment of international accounts.  **26**2.9 *Collection charge*:  The charge established and collected by an authorized operating agency from its customers for the use of an international telecommunication service. |
| **Comment**: Identical terms – "relation", "accounting rate", and "collection charge" – are used in the English versions of the 1988 and 2012 ITRs. The Russian version of 2012 uses the correct current translations of these terms. The definitions of the 2012 ITRs refer only to an authorized operating agency. | |
| **27**  2.10 *Instructions:* A collection of provisions drawn from one or more CCITT Recommendations dealing with practical operational procedures for the handling of telecommunication traffic (e.g., acceptance, transmission, accounting). | Definition removed. |
| ARTICLE 3  International Network  §§ 3.1 – 3.4 refer to the administration or recognized private operating agency. | ARTICLE 3  International network  §§ 3.1 – 3.4 do not now refer to recognized private operating agencies and refer instead to “authorized operating agencies”. |
| No analogous provisions. | **31**  ***3.5  Member States shall endeavour to ensure that international telecommunication numbering resources specified in ITU-T Recommendations are used only by the assignees and only for the purposes for which they were assigned; and that unassigned resources are not used.***  ***32  3.6   Member States shall endeavour to ensure that international calling line identification (CLI) information is provided taking into account the relevant ITU-T Recommendations.***  ***33  3.7  Member States should create an enabling environment for the implementation of regional telecommunication traffic exchange points, with a view to improving quality, increasing the connectivity and resilience of networks, fostering competition and reducing the costs of international telecommunication interconnections.*** |
| **Comment**: New §§ 3.5 – 3.7 in the 2012 ITRs are intended to promote the adoption of additional measures to ensure high-quality and reliable international telecommunication services and the development of suitable infrastructure. | |
| ARTICLE 4  International Telecommunication Services  **32**  4.1 Members shall promote the implementation of international telecommunication services and shall endeavour to make such services generally available to the public in their national network(s). | ARTICLE 4  International telecommunication services  **34**  4.1 Member States shall promote the development of international telecommunication services and shall foster their availability to the public. |
| **Comment**: The provision is updated to reflect changes in the telecommunication sector (market liberalization, the emergence of many non-state operators, and so on). | |
| §§ 4.2 and 4.3 refer to administrations or private operating agencies. | §§ 4.2 and 4.3 are retained in essence but updated as regards the entities to which the ITRs are applicable. |
| No analogous provision. | ***4.4 Member States shall foster measures to ensure that authorized operating agencies provide free-of-charge, transparent, up-to-date and accurate information to end users on international telecommunication services, including international roaming prices and the associated relevant conditions, in a timely manner.*** |
| No analogous provision. | ***4.5 Member States shall foster measures to ensure that telecommunication services in international roaming of satisfactory quality are provided to visiting users.*** |
| No analogous provision. | ***4.6 Member States should foster cooperation among authorized operating agencies in order to avoid and mitigate inadvertent roaming charges in border zones.*** |
| No analogous provision. | ***4.7 Member States shall endeavour to promote competition in the provision of international roaming services and are encouraged to develop policies that foster competitive roaming prices for the benefit of end users.*** |
| **Comment:** §§ 4.4 – 4.7 in the 2012 ITRs introduce new obligations for Member States and authorized operating agencies, respectively, arising from the development of the telecommunication sector and the introduction of new types of international telecommunication service. | |
| ARTICLE 5  Safety of Life and Priority of Telecommunications  §§ 5.1 – 5.3 refer to administrations or private operating agencies. | ARTICLE 5  Safety of life and priority of  telecommunications  §§ 5.1 – 5.3 have been updated with regard to the entities to which the ITRs and other ITU texts apply. |
|  | **48  *5.4 Member States should encourage authorized operating agencies to inform all users, including roaming users, in good time and free of charge, of the number to be used for calls to the emergency services.*** |
| **Comment**: § 5.4 introduces new obligations for Member States and authorized operating agencies, respectively, arising from the introduction of new types of international telecommunication services. | |
| No analogous article. | ARTICLE 6  Security and robustness of networks  ***49  6.1 Member States shall individually and collectively endeavour to ensure the security and robustness of international telecommunication networks in order to achieve effective use thereof and avoidance of technical harm thereto, as well as the harmonious development of international telecommunication services offered to the public.*** |
| **Comment**: Requirements regarding security and robustness of networks, and the international cooperation to achieve this, are key factors in the successful development of telecommunications/ICTs and the general economy, taking into account the increasing role of telecommunications/ICTs in the modern world. | |
| No analogous article. | ARTICLE 7  Unsolicited bulk electronic communications  **50** ***7.1 Member States should endeavour to take necessary measures to prevent the propagation of unsolicited bulk electronic communications and minimize its impact on international telecommunication services.***  ***51  7.2 Member States are encouraged to cooperate in that sense.*** |
| **Comment:** Unsolicited bulk electronic communications create significant problems for telecommunication operators and users. The absence of any obligations under this article could, deliberately or unintentionally, be used to cause adverse impact on the viability of a communication network or on telecommunication services. | |
| ARTICLE 6  Charging and Accounting  No analogous provision. | ARTICLE 8  Charging and accounting  **52  8.1** **International telecommunication arrangements**  **53  *8.1.1  Subject to applicable national law, the terms and conditions for international telecommunication service arrangements may be established through commercial agreements or through accounting-rate principles established pursuant to national regulation.***  ***54  8.1.2  Member States shall endeavour to encourage investments in international telecommunication networks and promote competitive wholesale pricing for traffic carried on such telecommunication networks.*** |
| **42**  6.1 *Collection charges*  **43**  6.1.1 Each administration\* shall, subject to applicable national law, establish the charges to be collected from its customers. The level of the charges is a national matter; however, in establishing these charges, administrations\* should try to avoid too great a dissymmetry between the charges applicable in each direction of the same relation.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \* or recognized private operating agency(ies).  **44**  6.1.2 The charge levied by an administration\* on customers for a particular communication should in principle be the same in a given relation, regardless of the route chosen by that administration\*. | **61*****Collection charges***  **62  8.2.5**The charges levied on customers for a particular communication should in principle be the same in a given relation, regardless of the international route used for that communication. In establishing these charges, Member States should try to avoid dissymmetry between the charges applicable in each direction of the same relation. |
| **45**  6.1.3 Where, in accordance with the national law of a country, a fiscal tax is levied on collection charges for international telecommunication services, this tax shall normally be collected only in respect of international services billed to customers in that country, unless other arrangements are made to meet special circumstances. | **63  8.3 Taxation**  **64**8.3.1 Where, in accordance with the national law of a country, a fiscal tax is levied on collection charges for international telecommunication services, this tax shall normally be collected only in respect of international services billed to customers in that country, unless other arrangements are made to meet special circumstances. |
| **Comment**: The provision on taxation has been allocated to a separate § 8.3 of this article in the 2012 ITRs, with the aim of preventing double taxation and thereby helping to lower prices for telecommunication services for consumers. | |
| **46**  6.2 *Accounting rate*  **47**  6.2.1  For each applicable service in a given relation, administrations\* shall by mutual agreement establish and revise accounting rates to be applied between them, in accordance with the provisions of Appendix 1 and taking into account relevant CCITT Recommendations and relevant cost trends. | **55  8.2 Accounting-rate principles**  **56 *Terms and conditions***  **57**8.2.1 The following provisions may apply where the terms and conditions of international telecommunication service arrangements are established through accounting-rate principles, established pursuant to national regulation. These provisions do not apply to arrangements established through commercial agreements.  **58**8.2.2 For each applicable service in a given relation, authorized operating agencies shall, by mutual agreement, establish and revise accounting rates to be applied between them, in accordance with the provisions of Appendix 1 and taking into account the relevant ITU-T Recommendations.  **59**8.2.3 Unless otherwise agreed, parties engaged in the provision of international telecommunication services shall follow the relevant provisions as set out in Appendices 1 and 2. |
| **48**  6.3  Monetary unit  **49**  6.3.1  In the absence of special arrangements concluded between administrations\*, the monetary unit to be used in the composition of accounting rates for international telecommunication services and in the establishment of international accounts shall be:  – either the monetary unit of the International Monetary Fund (IMF), currently the Special Drawing Right (SDR), as defined by that organization;  – *or the gold franc, equivalent to 1/3.061 SDR.50*  **50** 6.3.2 In accordance with relevant provisions of the International Telecommunication Convention, this provision shall not affect the possibility open to administrations\* of establishing bilateral arrangements for mutually acceptable coefficients between the monetary unit of the IMP and the gold franc.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \* or recognized private operating agency(ies). | **60**  8.2.4 In the absence of special arrangements concluded between authorized operating agencies, the monetary unit to be used in the composition of accounting rates for international telecommunication services and in the establishment of international accounts shall be:  – either the monetary unit of the International Monetary Fund (IMF), currently the Special Drawing Right (SDR), as defined by that organization;  – *or freely convertible currencies or other monetary unit agreed between the authorized operating agencies.*  … |
| **Comment**: No. 60 (8.2.4) of the 2012 ITRs, which in the 1988 ITRs contained a reference to the “gold franc”, is outdated, while No. 60 (8.2.4) of the 2012 ITRs fully reflects the flexible practical approach used in the modern world. | |
| **51**  6.4 *Establishment of accounts and settlement of balances of account*  **52**  6.4.1 Unless otherwise agreed, administrations\* shall follow the relevant provisions as set out in Appendices 1 and 2. | *No. 8.2.3 above* |
| **53** 6.5 *Service and privilege telecommunications*  **54**  6.5.1 Administrations\* shall follow the relevant provisions as set out in Appendix 3. | **65  8.4 Service telecommunications**  **66**8.4.1 Authorized operating agencies may in principle forego the inclusion of service telecommunications in international accounting, under the relevant provisions of the Constitution and the Convention and these Regulations, having due regard for the need for reciprocal arrangements. Authorized operating agencies may provide service telecommunications free of charge.  **67**8.4.2 The general operational, charging and accounting principles applicable to service telecommunications should take account of the relevant ITU-T Recommendations. |
| **Comment**: The provisions of Appendix 3 of the 1988 ITRs were incorporated directly in the text of the 2012 ITRs. | |
| ARTICLE 7  Suspension of Services  **55**  7.1 If a Member exercises its right in accordance with the Convention to suspend international telecommunication services partially or totally, that Member shall immediately notify the Secretary-General of the suspension and of the subsequent return to normal conditions by the most appropriate means of communication.  **56**  7.2 The Secretary-General shall immediately bring such information to the attention of all other Members, using the most appropriate means of communication. | ARTICLE 9  Suspension of services  **68**9.1 If a Member State exercises its right in accordance with the Constitution and the Convention to suspend international telecommunication services partially or totally, that Member State shall immediately notify the Secretary-General of the suspension and of the subsequent return to normal conditions by the most appropriate means of communication.  **69**9.2 The Secretary-General shall immediately bring such information to the attention of all other Member States, using the most appropriate means of communication. |
| ARTICLE 8  Dissemination of Information | ARTICLE 10  Dissemination of information  ***Comment:*** *The article has been updated but not fundamentally changed.* |
| No analogous article. | ARTICLE 11  Energy efficiency/e-waste  **71**  ***11.1***  ***Member States are encouraged to adopt energy efficiency and e-waste best practices taking into account the relevant ITU-T Recommendations.*** |
| **Comment:** Article 12 of the 2012 ITRs reflects the widely recognized requirements of the UN and of many other international organizations and the legislation of ITU Member States concerning environmental protection. ITU-T brought together considerable experience and adopted a number of L-series Recommendations on issues of energy efficiency, e-waste and other questions pertaining to the environment. | |
| No analogous article. | ARTICLE 12  Accessibility  **72** ***12.1*** ***Member States should promote access for persons with disabilities to international telecommunication services, taking into account the relevant ITU-T Recommendations.*** |
| **Comment**: Article 12 of the 2012 ITRs reflects the widely recognized requirements of the UN and of many other international organizations and the legislation of ITU Member States concerning the promotion of access to telecommunications for persons with disabilities, and includes a reference to Recommendations that reflect specific approaches to meeting those needs. | |
| ARTICLE 9  Special Arrangements  **58**  9.1  *a)*  *Pursuant to Article 31 of the International Telecommunication Convention (Nairobi, 1982)*, special arrangements may be entered into on telecommunication matters which do not concern Members in general. Subject to national laws, *Members may allow administrations*\* or other organizations or persons to enter into such special mutual arrangements with *Members, administrations*\* or other organizations or persons that are so allowed in another country for the establishment, operation, and use of special telecommunication networks, systems and services, in order to meet specialized international telecommunication needs within and/or between the territories of the Members concerned, and including, as necessary, those financial, technical, or operating conditions to be observed.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \* or recognized private operating agency(ies). | ARTICLE 13  Special arrangements  **73**  13.1  *a)*  *Pursuant to Article 42 of the Constitution*, special arrangements may be entered into on telecommunication matters which do not concern Member States in general. Subject to national laws, *Member States may allow authorized operating agencies* or other organizations or persons to enter into such special mutual arrangements with *Member States and authorized operating agencies*, or other organizations or persons that are so allowed in another country for the establishment, operation and use of special international telecommunication networks, systems and services, in order to meet specialized international telecommunication needs within and/or between the territories of the Member States concerned, and including, as necessary, the financial, technical or operating conditions to be observed. |
| **Comment**: See Comment on No. 2 1.1 a) of the 1988 ITRs and No. 5 b) of the 2012 ITRs. | |
| ARTICLE 10  Final Provisions  **61**  10.1 These Regulations, of which Appendices 1, 2 and 3 form integral parts, shall enter into force on 1 July 1990 at 0001 hours UTC.  **62**  10.2 On the date specified in No. 61, the Telegraph Regulations (Geneva, 1973) and the Telephone Regulations (Geneva, 1973) shall be replaced by these International Telecommunication Regulations (Melbourne, 1988) pursuant to the International Telecommunication Convention.  **63**  10.3 If a Member makes reservations with regard to the application of one or more of the provisions of these Regulations, other Members and their administrations shall be free to disregard the said provision or provisions in their relations with the Member which has made such reservations and its administrations\*.  **64**  10.4 Members of the Union shall inform the Secretary-General of their approval of the International Telecommunication Regulations adopted by the Conference. The Secretary-General shall inform Members promptly of the receipt of such notifications of approval. | ARTICLE 14  Final provisions  **76**  14.1 These Regulations, of which Appendices 1 and 2 form integral parts, shall enter into force on 1 January 2015, and shall be applied as of that date, consistent with all the provisions of Article 54 of the Constitution.  **77**14.2 If a Member State makes reservations with regard to the application of one or more of the provisions of these Regulations, other Member States shall be free to disregard the said provision or provisions in their relations with the Member State which has made such reservations. |
| **Comment**: Updating of outdated provisions. | |

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