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| **Expert Group on the International Telecommunication Regulations (EG-ITRs)** |  |
| **Fifth meeting – Virtual meeting, 30 September-1 October 2021** |  |
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|  | **Document EG-ITRs-5/5-E** |
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| The Czech Republic, Estonia, Latvia, the Netherlands, Sweden  and the United Kingdom | |
| OVERALL OBSERVATIONS BASED ON THE PROVISION-BY-PROVISION EXAMINATION | |

1. We welcome the opportunity to make a contribution to the fifth meeting of the Expert Group on the International Telecommunications Regulations (ITRs). We thank the members of the group, the Chair, Vice Chairs and Secretariat for facilitating our work during a very challenging time and enabling us to, so far, fulfil the actions set out in our agreed Work Plan.

2. As noted in the agreed Work Plan, the main actions of the fifth meeting of the Expert Group on the ITRs are “Overall Observations based on the provision-by-provision examination”; our expected output is to create the “First Draft of the Final Report to Council 2022”.

3. Our overall observation based on the provision-by-provision examination is that on each provision of the 2012 ITRs there is a range of views and no consensus on either the “applicability of the provisions of the ITRs in fostering the provision and development of international telecommunication/ICT services and networks” or the “flexibility of, or lack thereof, the provisions of the ITRs to accommodate new trends in telecommunications/ICT and emerging issues in international telecommunications/ICT environment”. This is clearly shown in the progress reports of the meetings, including in the ‘Summary Outcome’ column in the ‘Examination Table’ in the Annex of these reports.

4. As set out in the EG-ITRs Terms of Reference, the Final Report to Council 2022 must reflect all views on the ITRs. We, therefore, propose that the Examination Table that has been included in the Progress Reports is also included in the Final Report. We think it is also important to set out clearly in the Final Report that there is no consensus in the group as a whole on whether the treaty-level provisions in the 2012 ITRs offer the flexibility and effectiveness required in the modern environment. This will be important in order to allow Council, and then the Plenipotentiary Conference, to understand the issues involved, the areas of agreement and the differences of view.

5. We also propose that the findings from this Expert Group on the ITRs should reference the work of the previous Expert Group. The previous Expert Group reviewed 41 contributions from Member States and Sector Members from all ITU regions and spent a total of ten days in detailed discussion and consideration. We note here a number of critical findings from that work:

* the Group did not find any examples of any issues or “real-world” difficulties that have arisen from differences between the 2012 and the 1988 texts
* the Group found that there could not be a conflict between the 2012 and 1988 texts because the Vienna Convention would always make it clear which provisions apply
* the Group heard that a very large proportion of operators no longer use the ITRs and instead rely on commercial arrangements.

6. We would further add, on the issue of new trends in telecommunications/ICT and emerging issues in the international telecommunications/ICT environment, our operators have not raised any concerns or uncertainties caused by the status quo and we are not aware of any concerns about potential issues in the future. In fact, we have observed that since 2012 the development of telecommunications services has continued to advance and the existence of two sets of ITRs does not appear to have hindered this development in any way.

**Conclusion**

7. 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.

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