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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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| **Contribution by Australia, Canada, and the United States of America**  OVERALL OBSERVATIONS BASED ON THE PROVISION-BY-PROVISION EXAMINATION OF THE 2012 INTERNATIONAL TELECOMMUNICATION REGULATIONS | |

**Introduction**

As active participants in the four previous meetings of the Expert Group on the International Telecommunication Regulations (EG-ITRs), Australia, Canada, and the United States wish to offer their overall observations based on the provision-by-provision examination of the 2012 ITRs. In our view, this provision-by-provision examination has repeatedly demonstrated that the ITRs are neither applicable nor flexible in today’s communications environment. Moreover, this exercise has resulted in a continued lack of consensus.

**Discussion**

In earlier contributions to the previous EG-ITR meetings, we have provided detailed analyses demonstrating the limited relevance of the ITRs in today’s international telecommunications marketplace. Consistent with these conclusions, we wish to reiterate several overall observations that highlight the inapplicability and inflexibility of the 2012 ITRs:

* ***Many provisions have limited value-add.*** For example, Article 6 (security and robustness of network) and Article 7 (unsolicited bulk electronic communications, e.g., SPAM), have little practical application. Technical solutions can continue to address such issues far more flexibly than any regulatory provisions in the ITRs, and any attempts to revise these provisions would be outdated immediately, given the rapid evolution of technological advancement in these areas.
* ***Many provisions are redundant.*** For example, Article 11 (energy efficiency/e-waste) and Article 12 (accessibility) repeat points already elaborated in Plenipotentiary Resolutions, making them unnecessary to duplicate in a sector-specific instrument like the ITRs.[[1]](#footnote-1) Similarly, many articles are essentially duplicative of corresponding provisions of the ITU Constitution & Convention (CS/CV).[[2]](#footnote-2) We believe the general provisions already included in the CS/CV are sufficiently resilient to withstand dynamic, competitive market conditions, such that the repeat provisions in the ITRs do not offer any additional relevance or flexibility to ITU Members.
* ***Many provisions have become (and will perpetually remain) obsolete.*** For example, the vast majority of traffic is no longer exchanged under the accounting rate regime presumed by Article 8 and Appendices 1 and 2. As new business models and new technologies have reduced the need for government-run accounting authorities, these provisions are no longer applicable to the current international telecommunications environment. Trying to apply the accounting rate provisions or even revise them in line with current market-based arrangements would impede the flow of international traffic and deter the innovation that improves services and lowers prices for consumers. As we have consistently maintained, treaty provisions relating to telecommunications must be flexible enough to endure constant changes in the market. Any attempt to revise the 2012 ITRs would meet the same fate as the current provisions – because of the ever-evolving market and regulatory environment, detailed treaty provisions will constantly become outdated.

We recognize that ITU Members hold differing opinions on this topic, as reflected in the Examination Table. Accordingly, we observe that the only overarching conclusion that can be drawn from the provision-by-provision examination of the 2012 ITRs is a lack of consensus, both as to the applicability and flexibility of the ITRs in today’s telecommunications landscape, and as to the need to revise the treaty. We find it unlikely that any further discussions on the subject would result in a different outcome.

**Conclusion**

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.

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1. *See* Resolution 182 (Rev. Busan, 2014) of the Plenipotentiary Conference on the role of telecommunications/information and communication technologies in regard to climate change and the protection of the environment; Resolution 175 (Rev. Dubai 2018) of the Plenipotentiary Conference on telecommunication/information and communication technology accessibility for persons with disabilities and persons with specific needs (respectively). [↑](#footnote-ref-1)
2. *See, e.g.*,Article 9 (suspension of services), Article 10 (dissemination of information), Article 13 (special arrangements), and Article 14 (final provisions); *see generally* Expert Group to Review the ITRs (2007-2009), Information Document 5 on Relation between the ITRs and Constitution and Convention, available at: <https://www.itu.int/md/T05-ITR.EG-INF-0005/en>. [↑](#footnote-ref-2)