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| REPORT OF THE EG ITRS TO COUNCIL | |
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Observations on the Report of the EG ITRs to Council

We welcome the opportunity to make a contribution to the final meeting of the Expert Group on the International Telecommunications Regulations (ITRs).

We are pleased that the Expert Group will produce a report that reflects all views in a factual and balanced way. 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.

We have contributed to the discussions on the basis of the existence or non-existence of “real world” evidence drawn from practical examples. We feel it is more likely to achieve consensus if we can build a better common understanding of whether and how the ITRs are used today. We are pleased that the Terms of Reference of the Group focused on the applicability of the ITRs and an examination of whether treaty-level provisions any longer provide the flexibility to accommodate new trends in telecommunications.

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.

This observation is not any different from the findings of the previous Expert Group:

* 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.

Regarding the status quo of two sets of ITRs treaties, we have observed that since 2012 the development of telecommunications services has continued to advance and the existence of two sets of ITRs has not hindered this development in any way.

Although progress has been made, developing countries in particular continue to face significant challenges in terms of investment, affordability and capacity. We need to continue to make progress in these areas in order to bridge the digital divide. We are not convinced that new treaty-level provisions will help any country build an enabling environment to attract investment.

Another issue is the worldwide urgent need to achieve the Sustainable Development Goals, which requires many countries and organizations to set significant steps and dedicate resources and attention to achieve them.

Bearing these two developments in mind, we are of the view that there is a danger that spending valuable time in inter-governmental negotiation of a new treaty would only take resources and effort away from urgent work to develop capacity, infrastructure and affordable connectivity.

In our view 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.

We recognize that ITU Members hold differing opinions on this topic, as reflected in the Examination Table which is to be annexed to the draft Report to Council. 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.

Therefore, our view remains that spending resources from ITU and Members of ITU on activities to discuss the ITRs, or activities to explore the possible holding of another WCIT would cause great uncertainty for many years, which could actually hinder the investment that we all need to see. It seems unlikely that a third set of ITRs would attract consensus agreement, and this could put at risk the ITU’s good reputation.

In our view the conclusion to be drawn is that any further work on the matter will not lead to any other result than the existing two opposite views, and the only way forward is to leave the status quo of two sets of ITRs as it is and to refrain from any further activities on the ITRs.

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