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|  | **Document EG-ITRs-2/19** |
| **17 January 2024** |
| **English only** |
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| Contribution from the United States of America | |
| OVERALL U.S. VIEWS ON THE CURRENT REVIEW OF THE ITRS | |
| **Purpose**  This contribution reaffirms longstanding U.S. views on the ITRs, organized along the elements of the current review as set out in the Terms of Reference and “taking into consideration the work of the previous two Expert Groups.”  **Action required**  The Expert Group on the International Telecommunication Regulations is invited **to discuss** this document and reflect it in the progress report to Council 2024.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **References**  [*EG-ITRs-2/5*](https://www.itu.int/dms_pub/itu-s/md/24/egitrs2/c/S24-EGITRS2-C-0005!!MSW-E.docx)*;* [*EG-ITRs-4/7*](https://www.itu.int/dms_pub/itu-s/md/18/clegitr4/c/S18-CLEGITR4-C-0007!!MSW-E.docx)*;* [*EG-ITRs-3/5*](https://www.itu.int/dms_pub/itu-s/md/20/egitr3/c/S20-EGITR3-C-0005!!MSW-E.docx)*.* | |

The United States participated actively in the two previous iterations of the Expert Group on the ITRs. With the benefit of this experience, we reiterate our longstanding position on the ITRs, organized along the elements of the current review as set out in the Terms of Reference, “taking into consideration the work of the previous two Expert Groups.”

1. *New trends and emerging issues:* As the United States has long noted, there is a fundamental incompatibility with the use of an inflexible treaty instrument to attempt to regulate a dynamic, competitive international telecommunications/ICT marketplace. Treaty provisions relating to telecommunications must be flexible enough to keep up with constant changes in technology and the market. It remains unclear how a static, sector-specific treaty with limited real-world applicability could ever prove flexible enough to accommodate new trends and emerging issues in the international telecommunications/ICT environment – given the rapid evolution of market and regulatory conditions, any attempts at new or revised treaty provisions would immediately become outdated.

ITU Members already undertake work on new trends and emerging issues without any impact on the ITRs. For example, contribution [EG-ITRs-2/5](https://www.itu.int/dms_pub/itu-s/md/24/egitrs2/c/S24-EGITRS2-C-0005!!MSW-E.docx) details some of the ITU’s efforts related to AI. Contrary to its conclusion, however, we believe this contribution highlights how the international community is already successfully addressing AI without any need or role for the ITRs. This contribution also neglects to mention PP Resolution 214 (Bucharest, 2022) on AI, which serves as a successful recent example of how ITU Members are already addressing new trends and emerging issues through more flexible mechanisms, again without need to modify the ITRs.

1. *Empirical data:* In earlier contributions to previous Expert Groups, U.S. Sector Members and other leading global network operators have repeatedly established that the vast majority of operators worldwide no longer use the ITRs and instead rely on commercial arrangements.

During the first Expert Group, for example, contribution [EG-ITRs-4/7](https://www.itu.int/dms_pub/itu-s/md/18/clegitr4/c/S18-CLEGITR4-C-0007!!MSW-E.docx) stated: “Based on our collective operational experience, the ITRs are no longer applicable to or relevant in today’s highly competitive international telecommunications market. Rather, our companies exchange virtually all international traffic globally through commercially-negotiated agreements; any traffic settled under the ITRs is negligible.”

Similarly, during the second Expert Group, contribution [EG-ITRs-3/5](https://www.itu.int/dms_pub/itu-s/md/20/egitr3/c/S20-EGITR3-C-0005!!MSW-E.docx) reiterated: “To our knowledge, there are very few countries or carriers that continue to rely on the ITR-based accounting rate regime. […] Today, the emergence of multiple competing private-sector operators in each country has resulted in a competitive landscape that does not require any treaty instrument like the ITRs.”

The United States welcomes the continued efforts of this Expert Group to base its conclusions on such empirical evidence.

1. *Relevance of the ITRs:* In U.S. contributions to the previous Expert Group, we conducted a comprehensive provision-by-provision examination of the 2012 ITRs and provided detailed analyses demonstrating the limited relevance of the ITRs in today’s international telecommunications/ICT environment. We reaffirm this conclusion.

We also emphasize that this view does not mean we therefore support proposed efforts to try to enhance the relevance of the ITRs. Given that the previous two Expert Groups did not find any evidence of “real-world” problems that have arisen from the status quo, we believe that any such efforts would not represent the best use of limited ITU resources. Additionally, operators have long cautioned the previous two Expert Groups that attempts to revisit complex issues in a treaty instrument may have unintended negative consequences, such as impeding operators’ ability to quickly respond to changing network environments.

We recognize that ITU Members hold divergent views on this topic, as aptly summarized by the final reports of the previous two Expert Groups. Therefore, as this Expert Group continues “taking into consideration the work of the previous two Expert Groups,” we believe an important conclusion to keep in mind is this persisting lack of consensus.

As the United States has consistently maintained, it remains unclear what role, if any, an inflexible, sector-specific legal instrument like the ITRs can play in today’s dynamic, competitive telecommunications/ICT environment. New or revised treaty provisions designed to address specific trends or issues in the market (even if they “consist of high-level guiding principles”) will continually become obsolete.

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