

World Conference on International Telecommunications

The following is a response by the ITUC to comments posted by the International Telecommunications Union on its website following correspondence from the ITUC and Greenpeace to the UN Secretary General, and a meeting of the ITUC, UNI Global Union and ITU Secretary General Dr Hamadoun Touré on 15 November 2012.

The specific responses of the ITUC are in italics, following the text of each relevant point made by the International Telecommunication Union in its web-post.

ITU: “In order to provide much needed clarity with regard to the upcoming WCIT-12 and to address Greenpeace International and the International Trade Union Confederation’s concerns regarding a multi-stakeholder approach to Internet governance, ITU have addressed certain inaccuracies and misleading comments contained in the letter, below.

1. Despite what you may have been led to believe, there have not been any proposals calling for a change from the bottom-up multi-stakeholder model of Internet governance to an ITU-controlled model. **Internet Control is simply not in the ITU mandate and ITU will continue to fully support the multi-stakeholder approach which it initiated some ten years ago for the World Summit of the Information Society. WCIT-12 cannot empower governments to exercise greater regulation of the Internet.”**

The internet is not effectively in the ITU mandate today – but if any of a number of the proposals in the draft extension of the International Telecommunication Regulations is accepted, then the internet would certainly come within the ITU mandate. The ITU, in the meeting with ITUC/UNI on 15 November 2012, sought to justify this on the basis that much internet traffic travels through traditional telecommunications hardware and that that is the limit of their interest. Whether or not this is the case, many of the proposals to be decided in Dubai at the WCIT would bring the internet clearly into the realm of ITU regulation. Below are some specific examples of text from the draft ITRs – others include the proposed definition of spam and, provisions on cybersecurity. For a fuller overview of how the revised ITRs would cover the internet, see the summary of implications of those proposals which have been made public, by the Internet Society <http://bit.ly/Wam9qG>.

*The statement that “**WCIT-12 cannot empower governments to exercise greater regulation of the Internet.**” is at a minimum open to question – if, as certain governments propose, the future ITRs do include provisions which do empower governments to exercise greater regulation of the internet.*

Example 1. The draft ITRs currently on the ITU website include two alternative new definitions setting out the scope of the ITRs:

[“**ADD CWG/4/48**

14A 2.1A Telecommunication/ICT: Any transmission, emission or reception, including processing, of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems.

ADD CWG/4/49

14A 2.1A Telecommunication/ICT: Any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems.”

Reasons: Differs from the previous proposal only by omitting the term “or processing”.]

Note: the inclusion/omission of the term “processing” is important – inclusion would extend the ITRs even further into the domain of what actually happens once a transmission is received, for example by a computer.

Example 2. Concerns the following proposed amendment to the ITRs – explicit reference to the Internet Protocol.

[“**ADD** CWG/4/105

270 2.28 *IP interconnection:* IP interconnection refers to technical and business solutions and rules to ensure the delivery of IP traffic through different networks.”]

And

[“**MOD** CWG/4/110

28 3.1 Members States shall ensure that administrations* operating agencies cooperate in the establishment, operation and maintenance of the international network to provide a satisfactory quality of service [and above a minimum level taking into consideration the relevant Recommendations of the ITU | and above a minimum level corresponding to the relevant ITU-T Recommendation]. [Member States shall facilitate the development of international IP interconnections providing both best effort delivery and end to end quality of service delivery.]”]

ITU: “2. The letter accuses ITU of not listening to the voices of private sector or civil society. However, as you may be aware, ITU is unique within the UN family in having some 700 private sector members in addition to 193 Member States. All have been engaged in the WCIT-12 preparatory process, which has been underway for some years. In addition, several months ago, [ITU set up a public consultation website open to all stakeholders](#) and have held three global briefings (supporting remote participation from anywhere around the world) open to media, analysts and civil society, all of which have been well-attended. Moreover, ITU has been vocal in encouraging all governments to initiate their own national multi-stakeholder public consultation process, with several administrations embracing this suggestion.”

While the letter places our concerns in the context of the UN’s position that the involvement of the private sector and civil society is important, the focus of the letter concerns the need for civil society involvement. The ITU sector members are overwhelmingly private companies, with some academic and internet-specific ngos. When, under the previous ITU Secretary General, the Global Union Federation for the sector, UNI, sought representation at the ITU, they were told that they could have sector-member status – the current fee basis for sector membership from an industrialised country is CHF 31,800. Sector members paying the fee have access to a significant amount of documentation concerning WCIT-12 which is not available publicly. At the meeting with the ITU on 15 November, Dr Toure did offer to give UNI sector membership for free, an offer which UNI is considering.

The public consultation space on the ITU website only received a total of 15 submissions, possibly in part due to the registration requirements for those seeking to lodge submissions on the consultation space. The consultation space was opened on 15 August 2012 and was close on 3 November (even though it is understood that the ITU is still receiving proposals from governments). A number of the submissions lodged on the consultation space also complain of the lack of openness and transparency, such as:

“We, the undersigned civil society organisations from India, respectfully acknowledge the important role that the ITU has played in the spread of telecommunications around the world. However, we are concerned about the lack of transparency and openness of the processes related to the WCIT: the WCIT/ITU excludes civil society, academia and other stakeholders from participation in and access to most dialogues and documents.”

<http://www.itu.int/en/wcit-12/Pages/public.aspx>

“CDT believes that the ITRs should remain generalized and not technology-specific in nature. Proposals to include more specific and prescriptive provisions in the ITRs raise significant policy questions that must be carefully deliberated in a multistakeholder process wherein technical, legal, and economic experts have a meaningful role in decision-making. Unfortunately, the WCIT process does not follow this model: it is not transparent to the public and it does not offer equitable opportunities for participation to non-state actors. While corporate and civil society entities may purchase Sector membership (if they can afford the high membership fee, an insurmountable hurdle for most civil society organizations), only governments are allowed full participation in the WCIT process. While we appreciate the opportunity to comment, we reiterate that the WCIT is not, and has not been designed to be, a multistakeholder process.”

(CDT = Centre for Democracy and Technology) <http://www.itu.int/en/wcit-12/Pages/public.aspx>

These concerns have been supported by a large number of civil society organisations

<http://www.cdt.org/letter/sign-letter-opposing-itu-authority-over-internet>

With regard to the assertion that “...ITU has been vocal in encouraging all governments to initiate their own national multi-stakeholder public consultation process...”, the following summary of national processes in several countries by the Internet Society reveals a wide range of experience with consultation – from full and adequate, to non-existent. <http://www.internetsociety.org/wcit-preparations-around-world>

ITU: “**3.** WCIT-12 **will not** be convened behind closed doors. Governments are encouraged to include both private sector and civil society representatives on their national delegations. [The preliminary list of registered participants already clearly reflects this](#). There are no limitations whatsoever on the composition or size of delegations. In addition, ITU Secretary-General Touré has personally reached out to civil society leaders and even non-members, urging them to attend WCIT-12. Their voices are considered important by ITU, to the successful outcome of the conference. ITU also expects that media and members of the public will be able to attend the conference free of charge.”

*This paragraph itself serves to reinforce the “closed door” concerns, in that the preliminary list of registered participants is not accessible –the link included in the paragraph can only be viewed by members of the ITUs TIES service (Telecommunication Information Exchange Service) which according to the ITU “is a set of networked **information resources and services***

offered by ITU without any charge to ITU Members ([Member States](#), [Sector Members](#), [Associates](#), and [Academia](#)) to support their participation in the activities of the Union”.

While the WCIT Conference will undoubtedly have plenary sessions, and possibly other sessions where national delegation members can participate, the ITUC understands that it is only at the opening session of the Conference that a decision will be taken concerning whether or not to allow people who are not delegation members to observe proceedings.

The ITUC asked, at the November 15 meeting, if the ITU is preparing or preparing for the presentation of a “compromise text” for adoption at the WCIT, as this procedure has been used before in ITU meeting. The answer was no, it is not. In the ITUC’s view, it is inevitable that key discussions on contentious proposals, between delegations and possibly mediated by the ITU, will take place at the WCIT Dubai and that these discussions will take place behind closed doors.

ITU: “**4.** The counterfactual letter published by Greenpeace and the International Trade Union Confederation inaccurately claim that ITU Council rejected a proposal to make all documents available to all stakeholders. This is simply not true. In fact, membership unanimously accepted the proposal of Dr. Touré, ITU Secretary-General, to make public the main proposals document – a fact that could have easily been verified with ITU. [This document is available on ITU’s WCIT-12 website.](#)”

Here the ITU denies that the proposal to make all documentation available was rejected – by saying that the main proposals document is public. So it is the case that the main, but not all, documents are available. For example, we understand that the ITU received, on 12 November, a proposal from the Russian Federation which would explicitly give control inter alia of naming and numbering to national governments – no mention of this proposal was made to us by the ITU during the 15 November meeting. The ITUC now understands that the Russian Federation has withdrawn this proposal and has re-submitted it in a modified form. In the meantime, the 13 November version of the Russian Federation proposal or a revision of it, seems to be available to those with ITU password access, but not to the public: <http://www.itu.int/md/meetingdoc.asp?lang=en&parent=S12-WCIT12-121203-C&source=Russian%20Federation>

At a 22 June 2012 media briefing, the ITU’s Richard Hill responded to a question about access to WCIT documents by saying that “The degree of the publication of the documents varies depending on the nature of the event. And in terms of the Secretary-General’s proposal, he’s basically just requesting that the appropriate body (which is Council) discuss the matter, and we will not wish to second-guess or to anticipate when the discussions will take place”. In the case of the WCIT-12 event, some, but by no means all, the documentation is available.

ITU: “In addition, the [recent opinion piece published in Wired.com](#) clearly spells out the important issues WCIT-12 will deal with, puts many myths surrounding the conference to rest and emphasizes ITU’s commitment to upholding the fundamental principles of freedom of expression as outlined in [Article 19 of the UN Declaration of Rights and Freedoms](#) and in [Article 33 of ITU’s own Constitution.](#)”

The response from the ITU at the November 15 meeting when the ITUC raised the specific issue of freedom of expression, the ITU responded that there would be a preambular reference in the revised ITRs to the UN Declaration. The ITU also advised that the Government of Tunisia had proposed inclusion of such language in an operative clause of the revised ITRs. It is not clear how any difference of interpretation between such a preambular reference or operative clause and the contents of a proposal (if adopted) such as the following would be resolved, given that the ITU does not have a dispute settlement mechanism capable or mandated to give interpretation of matters such as freedom of speech.

Draft ITR proposals: “5A.4 Member States shall ensure unrestricted public access to international telecommunication services and the unrestricted use of international telecommunications, except in cases where international telecommunication services are used for the purpose of interfering in the internal affairs or undermining the sovereignty, national security, territorial integrity and public safety of other States, or to divulge information of a sensitive nature.”

ITU: “At this very moment, there is a proposal from at least one Member State, supported by many others, to include such text in the [revised International Telecommunication Regulations \(ITRs\)](#).”

WCIT-12 is a valuable opportunity to strengthen the important role information and communication technologies (ICTs) can play in achieving the [MDGs](#) and serving as a catalyst for socio-economic development.

ITU is pleased to have had the opportunity to respond to seemingly uniformed concerns and provide clarity around the WCIT-12 and remain steadfast in our organizations mandate to connect the world.

This morning, on the invitation of the ITU Secretary-General, a delegation from the [International Trade Union Confederation](#) met with the ITU SG and his team in a spirit of constructive dialogue at ITU headquarters. Certain misconceptions were clarified and an invitation was extended to [UNI Global](#) – which represents some 180 million telecoms workers around the world – to join ITU.”

UNI Global Union advised the ITU that they would consider this invitation to “join ITU”.

ITU SG also invited the International Trade Union Confederation to attend WCIT-12.

The ITUC advised that it would not attend the WCIT on the basis proposed. It is the ITUC’s understanding that a decision will be taken at the opening session of the WCIT on whether to permit representatives from outside national delegations to take part in the sessions of the WCIT, and on this basis, and given the lack of transparency and civil society engagement by the ITU to date, ITUC participation in WCIT would only serve to give belated legitimacy to a process which the ITUC did not consider legitimate.

At the November 15 2012 meeting with the ITU, the ITUC and UNI strongly encouraged the ITU to take off the table for the WCIT negotiations those proposals which would extend the scope of the ITRs to cover the internet, and requested the ITU to state its willingness to take part instead in a broad and deep consultation process with all interested and affected organisations, including civil society, to ensure that a genuine multi-stakeholder process be

undertaken to consider the highly important issues at stake. The ITU did not respond positively to this request.

The link to the ITU website version of the current draft ITRs document (not including some proposals submitted by member states) is:

<http://www.itu.int/en/wcit-12/Documents/draft-future-itrs-public.pdf>

[some of the documents which the ITU has not made public can be seen at www.WCITleaks.org](http://www.WCITleaks.org)