

Notes and Recommendations to ITU 2014 Plenipotentiary Conference, Busan, Korea

Executive Summary

The International Telecommunication Union's 2014 Plenipotentiary conference is taking place at a watershed moment. The growth of the open, borderless Internet and the increasing availability of information and communication technologies (ICTs) are revolutionising access to knowledge, commerce and creativity. The free flow of information and communications has never been so critical to the prosperity of nations or the realisation of human rights as it is now.

As civil society organisations from diverse regions (Asia, Africa, Europe, North America and South America) with expertise in internet and ICT-related issues, we share the belief that the Plenipotentiary provides an historic opportunity for the ITU to craft strategic approaches to closing the digital divide. Building on its nearly 150 years of experience in expanding humanity's capacity to communicate, we believe the ITU should focus on areas where it has greatest expertise and mandate; collaborate with other agencies and organizations without duplication or fragmentation of efforts; and dedicate its resources and its efforts to ensure that the benefits of ICTs can be fully harnessed for wider social and economic development.

In this spirit, we make the following recommendations to the ITU and its Members:

1. **ITU transparency and participation.** The ITU should enhance its transparency and allowing greater scope for participation of civil society and other actors in its deliberations - including by making all documents publicly available on the ITU website, unless disclosure would harm a legitimate private or public interest.
2. **ITU role in internet governance.** The ITU should work with other actors to contribute to furthering multistakeholder internet governance, rather than attempting to take on new responsibilities for the development of international internet public policy. The ITU should not seek a role in the development of policies on core Internet resources such as domain name and addresses, but should focus on ever more important core issues such as access, infrastructure and related capacity building.
3. **ITU and the WSIS.** The ITU along with other relevant agencies such as UNESCO and stakeholders around the globe should work in a multistakeholder manner in implementing the WSIS High Level Event outcomes. The ITU should work towards ensuring that the modalities for the WSIS+10 review in 2015 are similarly open, transparent and inclusive.
4. **ICTs in the post-2015 development agenda.** The Plenipotentiary should express strong support for ambitious and measurable commitments in the Sustainable Development Goals (SDGs) to build an inclusive information society. The role of ICTs in achieving the SDGs is generally recognized but reference to ICTs in the SDGs themselves is minimal and the ITU, along with other UN agencies, should address this deficiency.
5. **Capacity-building.** The ITU should enhance the provision of capacity-building support to developing countries through ITU-D, ITU-T and ITU-R, whilst also ensuring that these efforts

are coordinated with those of standard-setting and other bodies that do similar or associated work.

6. **Cyber-security.** Although concerns about strengthening cybersecurity are legitimate and important, it is premature to instruct the ITU to begin discussions on developing a global cybersecurity treaty, given the lack of consensus on key issues, including what constitutes the use of force in cyberspace and how to govern activity which falls short of that threshold, as well as the organisation's current lack of transparency and openness. Further multistakeholder discussion should be encouraged.
7. **International interconnection and net neutrality.** The ITU should not attempt to address access and infrastructure issues in developing countries through policy and regulatory changes to global peering and interconnection, but encourage IXPs, infrastructure build-out, local content development and enabling environments that promote investment and competition
8. **Spectrum.** The Plenipotentiary should assign a high priority to the development and implementation of global standards for dynamic spectrum access, which should be a central outcome of the World Radio Conference in 2015.
9. **Counterfeit devices.** The ITU should ensure that whilst addressing counterfeit devices, end-user connectivity should not be limited.

Supporters in Alphabetical Order as of Oct 21st

Article 19	Global
Association for Progressive Communications (APC)	Global
Center For Global Communications (GLOCOM)	Japan
Center For Technology And Society Of FGV Law School	Brazil
CENTRE AFRICAIN D'ECHANGE CULTUREL (CAFEC)	Democratic Republic Of The Congo
Centre For Democracy And Technology	USA
Community Media Visioning	United States
Foundation For Media Alternatives	Philippines
Global Partners Digital	UK
ICT Watch	Indonesia
Instituto NUPEF	Brazil
Internet Governance Forum Of Pakistan	Pakistan
IP Justice	USA
ISOC Costa Rica Chapter	Costa Rica
ISOC-PH	Philippines
Korean Progressive Network Jinbonet	South Korea
Movimento Mega	Brazil
Netpolicynews.Com	United States
Open Technology Institute At New America Foundation	USA
OpenMedia.Org	Canada/Global
Public Knowledge	USA
Social Media Exchange, Lebanon	Lebanon
Urdu Internet Society/ Linguistic Internet Council	Pakistan
World Wide Web Foundation	Global

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Table of Contents

I. ITU transparency and openness	4
II. ITU and Internet governance.....	4
III. The post-2015 development agenda	5
IV. Capacity Building	6
V. Cyber-security.....	6
VI. International Connection and Net Neutrality	8
VII. Spectrum	8
VIII. Counterfeit Devices	9

I. ITU transparency and openness

Resolutions 64, 66, 102, 145, 167 and 169; ITU PP-10 Decision 12; General Rules Modifications to Resolutions 64 (AFCP/69A1/6, CUB/70/1, ARB/79A2/3), 102 (IAP/34R1-AI/22, RCC/73A1/14, ARB/79A3/2, EUR/80A1/2), 167 (IAP/34R1-AI/34, AFCP/69A1/11, ARB/79A2/9) and 169 (IAP/34R1-AI/2, ACP/67A2/6, ARB/79A1/8, CL/89/3, EUR/80A1/9); Modifications to ITU PP-10 Decision 12 (IAP/34R1-A1/26, AFCP/69A1/4, RCC/73A1/7, ARB/79A2/1)

Background

In recent years, the ITU has facilitated the participation of civil society and experts on specific occasions. Specifically, experts, including from civil society, were invited to participate in the Informal Expert Group of the World Telecommunication Policy Forum, and all interested stakeholders were able to participate in the ITU-facilitated WSIS+10 Multistakeholder Preparatory Platform. These initial and welcome steps towards a more open and inclusive ITU must now be expanded.

Access to information is critical to enable wider participation in ITU processes. At the moment, ITU policy does not allow for public disclosure of meeting documents. This policy is reflected in two relevant ITU documents - the Information Circular and the Multiple-destination letter - neither of which have been reviewed or updated since 2000. This means that the ITU is lagging behind other UN agencies in terms of access to documents. Several UN agencies have adopted information disclosure policies in recent years, and those that do not have formal access/disclosure policies regularly provide a wealth of information related to their operations and governance to the public.

Public access to ITU documents would not only allow the ITU to catch up with other UN agencies, but would benefit the ITU's work by generating increased public interest in the organisation, as well as knowledge and research that could contribute to the work of the Union. For example, having access to ITU documents would have enriched public participation to the ITU's recent consultations.

Recommendations

The ITU should embrace a more inclusive approach to its work, including by opening meetings to the public and the press and by ensuring that all interested stakeholder can actively participate in and contribute to work of the ITU, in particular Council Working Group- Internet. At a minimum, the Secretary-General should seek the contribution and participation of non-member experts whose input will benefit the global community.

The ITU should update its guidelines and policies regarding access to documents, with the underlying principle of making all documents publicly available on the ITU website, without password protection, with the exception of cases in which disclosure would cause potential harm to a legitimate private or public interest that outweighs the benefits of accessibility.

II. ITU and Internet governance

Resolutions 101, 102, 133, 140 and Role of the ITU (ITR Resolution 3 and ITU PP-10 Decision 11); Strategic Plan for the Union for 2016-2019 Modifications to Resolutions 101 (ARG/B/PRG/76/1, ARB/79A3/1, EUR/80AI/1), 102 (IAP/34R1-AI/22, RCC/73A1/14, ARB/79A3/2, EUR/80A1/2), 133 (EUR/80A1/3) and 140 (IAP/34R1-A1/27, ACP/67A2/5, RCC/73AI/19, ARB/79A2/7, EUR/80AI/10); Modifications to ITU PP-10 Decision 11 (UAE/86/1)

Background

There are a number of proposals that seek to greatly expand upon Resolution 102 to increase the ITU's roles and responsibilities in the Internet policy and governance space. We do not support this expansion of scope; we see the ITU as an important player in the Internet governance ecosystem that should be working with other stakeholders to build multistakeholder approaches to further its goals, but not the place for the development of international Internet public policy.

Recommendations

We support the inclusion of reference to the WTPF and the six multistakeholder developed opinions. We also support proposals that call for the ITU to work with other stakeholders to contribute to multistakeholder Internet governance, for the ITU CWG Internet to be open to all interested stakeholders and for the documents of the CWG Internet to be available free of charge and without a TIES account. The ITU should work in an inclusive, transparent and open manner similar to other organizations in the Internet governance ecosystem that deal with Internet issues. We also support proposed changes that would draw more attention to the need to focus on international connectivity, access issues, capacity building, availability and cost.

We do not support changes that call for the ITU to 1) become an Internet Registry of sorts and to assign IP addresses; 2) become a platform for the development of international Internet public policies; 3) call for the ITU to be to coordinator of international Internet public policy.

III. The post-2015 development agenda

Resolutions 70, 110, 139, 140 and 172

Modifications to Resolutions 70 (IAP/34R1-A1/8, AFCP/69A1/7, ARB/79A2/4, EUR/80AI/21), 139 (IAP/34R1-A1/38, AFCP/69AI/8, ARB/79A3/3), 140 (IAP/34R1-A1/27, ACP/67A2/5, RCC/73AI/19, ARB/79A2/7, EUR/80AI/10) and 172 (ARB/79A3/4, RCC/73A1/18)

Background

The UN and its Member States are currently negotiating a new set of Sustainable Development Goals (SDGs) to replace the Millennium Development Goals (MDGs) in September 2015. The SDGs are overarching, cross-sectoral commitments that will have a considerable impact on how governments and their development partners set priorities and allocate resources for the next 15 years.

However, the current draft SDGs text released by the UN Secretary-General's Open Working Group in July 2014¹ does not include sufficiently strong commitments to advance information and communication technologies as a key means to achieve sustainable and inclusive development.

As the agency within the UN system with greatest mandate and expertise to address the digital divide, the ITU must use its voice and work with other UN agencies, such as UNESCO to ensure the WSIS Principles are strongly reflected in the SDGs.

Recommendations

The ITU along with other relevant agencies such as UNESCO and stakeholders around the globe should work in a multistakeholder manner, consistent with the WSIS+10 review Multistakeholder Preparatory Platform, in implementing the WSIS High Level Event outcomes. The ITU should work towards ensuring that the modalities for the WSIS+10 review in 2015 are similarly open, transparent and inclusive.

In addition, we would like to propose that the conference adopt a new resolution related to the Sustainable Development Goals, as below:

Recognising that universal access to ICT infrastructure and services, and the ability to use such services freely in pursuit of fundamental human rights, are preconditions for social and economic development,

Affirming the WSIS vision of an inclusive information society, "where everyone can create, access, utilize and share information and knowledge, enabling individuals, communities and peoples to achieve their full potential in promoting their sustainable development and improving their quality of life, premised on the purposes and principles of the Charter of the United Nations and respecting fully and upholding the Universal Declaration of Human Rights,"² and Resolution 139 on bridging the digital divide and building an inclusive information society;

¹ The current proposed goals can be found at <http://sustainabledevelopment.un.org/focussdgs.html>
² <http://www.itu.int/wsis/docs/geneva/official/dop.html>

Recognising that the internet, in particular, has become indispensable to enable people to obtain information and knowledge, to exercise their rights to freedom of expression and opinion, to participate fully in decisions affecting them, and to secure their rights to education, health, and livelihood,

Recalling Resolution 135 on the ITU's role in the development of information and communication technologies, in providing technical assistance and advice to developing countries, and in implementing relevant national, regional and interregional projects; resolution 137 on next-generation network deployment in developing countries; resolution 143 on developing countries and economies in transition and all the work of ITU - D, and resolution 70 on closing the gender gap in ICTs;

The member states of the ITU therefore resolve to express strong support for ambitious and measurable commitments in the Sustainable Development Goals to build an inclusive information society, including measurable targets to:

- attain universally affordable access to broadband internet by 2020, as a target under the current proposed Sustainable Development Goal 9 (infrastructure)
- ensure all people enjoy freedom of expression, opinion, association, and access to independent media and information both offline and online, and guarantee the public's right to information and access to government data, as targets under the current proposed Sustainable Development Goal 16 (peaceful and inclusive societies and effective and accountable institutions).
- remove all barriers preventing women and girls from using ICTs to promote their own empowerment, rights and dignity, including through measures to expand digital skills among women and girls and to stop online gender violence, as a target under the current proposed Sustainable Development Goal 5 (gender equality)

IV. Capacity Building

*Resolutions 47, 123, and Dubai Action Plan
Modifications to Resolution 123 (ACP 67A1/10, IAP 34R1/A1/14, RCC 73/A1/15)*

Background

The capacity building work of the ITU-D, as established by the WTDC-14, and housed under Objective 4, is focused on building human and institutional capacity, providing data and statistics, promoting digital inclusion and providing assistance to countries in special need. The addition of any work to the ITU-D or ITU-T would require the approval of Member States. The African position asks for an expansion of that role and provision of policy assistance.

Recommendations

We support the current work of the ITU-D and the enhancement of provision of capacity building to developing countries. However, taking into consideration the financial crisis ITU faces, we recommend that the ITU-D, ITU-T and ITU-R coordinate their actions with the standard developing organizations that are also addressing the same issues, in order to create greater impact.

V. Cyber-security

*Resolutions 130, 174, 179, 181
Modifications to Resolutions 130 (USA/27R1-A3/4, CUB/70/2, RCC/73A1/16, B/75/4, ARB/79A2/13, EUR/80A1/14, INS/82/2), 174 (CUB/70/3, B/75/6, ARB/79A4/4), 179 (IAP/34R1-A1/3, RCC/73A1/26, ARB/79A3/6, EUR/80A1/11)*

Background

While we recognize the growth of hostile cyber operations by state and non-state actors, as well as the rise of global cybercrime and the serious nature of the related debate, we feel that it is premature to instruct the ITU to begin discussions on developing a global cyber-security treaty, given the lack of consensus on key issues, including what constitutes the use of force in cyberspace and how to govern activity which falls short of that threshold. It is equally critical to ensure that future discussions of cyber-security and its overlaps with Internet governance are (i) grounded in human rights principles, and (ii) take place in forums that allow for sufficient multistakeholder participation.

Any discussion of cyber-security should be grounded in human rights principles

As the Report of the Group of Governmental Experts (GGE) on Developments in the Field of Information and Telecommunications in the Context of International Security in June 2013 stressed, "State efforts to address the security of ICTs must go hand-in-hand with respect for human rights and fundamental freedoms set forth in the Universal Declaration of Human Rights and other international instruments."³

Concerns about cyber-security and cybercrime should not be used as a means to advance proposals that could stifle free expression, legitimize excessive monitoring and surveillance, or justify filtering content. While there is a legitimate need for action to address security issues, particularly when they involve transnational cyber-crime or countries that do not have the capacity to address these threats on their own, any proposals in this regard should be measured and mindful of how they can be interpreted or abused.

Cyber-security should be discussed in forums that allow multistakeholder participation

Civil society organizations, the business community, and members of academia play a critical role in resolving many of the core technical and societal challenges of Internet governance and cyber-security, yet civil society participation in the development of cybersecurity strategies and international confidence-building measurement processes has been minimal. Some important breakthroughs toward multistakeholder involvement have been made in the past year, including formal acknowledgement of the roles of civil society and the private sector in the June UN GGE Report. It is important that future discussions of cybersecurity take place in forums that include all stakeholders.

The ITU should avoid creating initiatives that duplicate or cut across the work of other bodies that have mandates and expertise on cyber-security issues. For example:

- The UN General Assembly's First Committee has focused on the political dimension of cyber-security for over a decade, and several years ago the Security Council set up a working group on how terrorists use the Internet in order to allow the UN to study and address these challenges.
- The UN Office on Drugs and Crime is the recognized leading agency in the UN system for matters pertaining to crime and has signed a Memorandum of Understanding with the ITU to collaborate globally to provide technical and legal assistance to Member States combating cybercrime threats.⁴
- Additionally, there are successful non-governmental initiatives that have, for example, successfully helped reduce the amount of spam, as well as regional and multilateral cybercrime agreements such as the Budapest Convention on Cybercrime which can provide a basis to address other transnational issues.

Consistent with its expertise, the ITU should continue focusing its efforts - specifically the work of the ITU-D - on strengthening the technical and legal capacity of member states, providing resources, and supporting the efforts of other agencies.

Recommendations

Resolution 130: "Strengthening the role of ITU in building confidence and security in the use of information and communication technologies"

Strengthening capacity and working with other bodies and agencies within the United Nations (and taking into account the specific mandates and expertise of those agencies) are appropriate roles for the ITU, although the expertise and experience of non-UN actors and mechanisms that already exist in this space should be taken into account so as not to duplicate efforts.

We do, however, have serious reservations about any proposals to add language to Resolution 130 that may be vague or undefined, especially if they reference facilitating "evidence collection" or "tracing criminals" using ICTs which could facilitate monitoring and surveillance. Resolution 174: "ITU's role with regard to international public policy issues relating to the risk of illicit use of information and communication technologies"

³ See http://www.un.org/ga/search/view_doc.asp?symbol=A/68/98&referer=/english/&Lang=E paragraph 21 and also see UNGA res 68/243 PP11 "Noting the importance of respect for human rights and fundamental freedoms in the use of information and communications technologies".

⁴ See: <http://www.itu.int/en/ITU-D/Cybersecurity/Pages/UNODC.aspx>.

It is not necessary to expand this resolution to include references to initiating discussions on a global charter or treaty on ICT security. As outlined above, it is premature to begin such discussions until there is greater consensus on the need for such a treaty and on the core concepts it should address.

VI. International Connection and Net Neutrality

*Resolution 101
Modifications to Resolution 101 (ARG/B/PRG/76/1, ARB/79A3/1, EUR/80AI/1)*

Background

Resolution 101 highlights important roles for the ITU such as promoting global connectivity, network interoperability and working with other organizations such as those in the Internet technical community.

We share the concerns expressed by many Member States about infrastructure investment and buildout around the world — particularly in developing countries. The high cost of international connectivity is being dealt with through a range of measures, including competition, enabling environments and investment, increased traffic demand and reduced costs, Internet Exchange Points and local and regional traffic exchange, increased access to undersea cables, work in ITU SG 3, and work in ITU-D to incentivize Internet investment in previously underserved and unserved parts of the world.

Evolution of interconnection for IP traffic and IP enabled services remains an unsettled issue with no broadly accepted set of standards to govern international settlement. Currently, individual countries have the authority to regulate IP interconnection rates as needed, and this remains the optimal approach in such a dynamic and evolving market.

Recommendations

While further studies of peering and interconnection are welcome, we warn that attempts to regulate interconnection at global level are unlikely to solve the problem of infrastructure gaps, and could have a negative impact on users in developing countries, while also increasing cost, limiting online innovation and undermining network neutrality. Each country should retain individual authority to regulate IP interconnection rates where necessary and advisable in order to ensure universal service and promote robust competition.

VII. Spectrum

Related documents and modifications: ACP/67A1/18, AFCP/69A1/8

Background

License-exempt spectrum

License-exempt spectrum provides an enormous opportunity for growth in global connectivity and technological development and innovation. Combined with dynamic spectrum access, which is now already an everyday practice, license-exempt spectrum use can enable ubiquitous internet connectivity through Wi-Fi in the workplace, homes and schools.

License exemptions also help to close the digital divide by reducing the costs of deploying last-mile wireless networks, making wireless broadband access more efficient and more affordable for people around the world. Finally, license-exempt spectrum is critical to the Internet of Things, in fields such as smart grid communications, inventory management systems, mobile payments, and health monitoring.

Dynamic spectrum access

As the use of the 2.4 GHz Wi-Fi band, and a wide variety of research and test pilots have shown, dynamic frequency access allows for what the internet is best at: innovation and connectivity. More personal data traffic to smartphones is transported over Wi-Fi than over any other data connection.

ITU-R and ITU-D are doing relevant research into best practices for dynamic spectrum access and white space applications. To give space to upcoming technologies and innovation, to facilitate improved access to

the internet and to ensure compatibility and interoperability, global coordination is needed to standardize and implement dynamic spectrum access on more frequencies.

Recommendations

The Plenipotentiary should assign a high priority to the development and implementation of license exempt global standards for dynamic spectrum access, which should be a central outcome of the World Radio Conference in 2015;

Specifically, we suggest the rephrasing of ACP/67A1/18 as follows:

“Invites Requests the next World Radiocommunication Conference to consider the necessity to study the requirement to allocate spectrum for IoT, as appropriate prioritize the development of global standards in dynamic spectrum use, including standards that will allow unused frequencies to be given over for unlicensed shared access.”

Proposed language for resolution 135, modifications offered by AFCP, AFCP/69A1/8:

“Recognizing the importance of wireless broadband connection and dynamic spectrum management for last-mile connectivity, networks and innovations.”

VIII. Counterfeit Devices

Proposal IAP/34R1-A1/35

Background

Proposal IAP/34R1-A1/35 opens the door to prevent counterfeit devices from accessing telecommunications networks. Mobile phones have become critical to people’s livelihoods, safety, health and education, as well as their civil and political liberties. Denial of service would be an extremely disproportionate response to the relatively minor network irregularities that may be caused by counterfeit devices. Furthermore, it will mostly affect the poorest people, since counterfeit devices are attractive for this group because of their competitive pricing. Free expression standards should not be compromised in the fight against “counterfeit” mobile phones.

There are better ways to combat counterfeit devices, such as import and export controls and increased awareness and cooperation among operators, manufacturers and consumers’ associations. Such remedies should be further discussed and explored, as indicated in Resolution 177 (Guadalajara, 2010) and Resolution 79 (WTDC Dubai 2014), but they should always be in line with Resolution 37 (Hyderabad 2010) and 64 (Guadalajara 2010) which clearly stipulate the importance of users’ rights, bridging the digital divide and connectivity.

Recommendation

Include new language under section “Recognizing”:

“the importance of non-discriminatory access to users, and the bridging of the digital divide, which means that existing groups of users should not be disconnected from the network.”

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Center For Technology And Society Of FGV Law School	Brazil
CENTRE AFRICAIN D'ECHANGE CULTUREL (CAFEC)	Democratic Republic Of The Congo
Centre For Democracy And Technology	USA
Community Media Visioning	United States
Foundation For Media Alternatives	Philippines
Global Partners Digital	UK
ICT Watch	Indonesia
Instituto NUPEF	Brazil
Internet Governance Forum Of Pakistan	Pakistan
IP Justice	USA
ISOC Costa Rica Chapter	Costa Rica
ISOC-PH	Philippines
Korean Progressive Network Jinbonet	South Korea
Movimento Mega	Brazil
Netpolicynews.Com	United States
Open Technology Institute At New America Foundation	USA
OpenMedia.Org	Canada/Global
Public Knowledge	USA
Social Media Exchange, Lebanon	Lebanon
Urdu Internet Society/ Linguistic Internet Council	Pakistan
World Wide Web Foundation	Global