World Conference on International Telecommunications

Background Briefing for Country Code Top Level Domain Name Registries

Canadian Internet Registration Authority

October 2012

World Conference on International Telecommunications
Risks for Country Code Domain Name Registries

SUMMARY

- The International Telecommunications Union (ITU) will convene a global conference, the World Conference on International Telecommunications (WCIT) in December, at which governments will seek to amend the treaty binding provisions of the International Telecommunications Regulations (ITRs).

- Proposals made during the preparatory process have been criticized as potentially raising Internet costs for those least able to pay, slowing the Internet's progress in poor regions and working against the multi-stakeholder model of Internet governance.

- Any proposal to amend the ITRs needs to be thoroughly analyzed in advance to ensure that it does not impair the diffusion and management of the Internet, including by ccTLD managers.

- The WCIT schedule requests that formal proposals to change the ITR's be submitted by the end of November, so that the changes can be agreed to by December 14. Such a short period of time is clearly insufficient to allow for a thorough assessment of these implications.

- Members of the ccNSO should consult with their government representatives attending the WCIT:

    - to determine their position in advance of the conference;
    - offer their assistance is assessing any proposals that might be made, and
    - request that they not agree to any changes unless the full implications are clearly understood.

Briefing to the ccNSO on the ITRs and their Potential Impact of Internet Governance and Internet Services in ccTLD Countries.

In December, the International Telecommunications Union (ITU) will convene a global conference, the World Conference on International Telecommunications (WCIT), in Dubai to discuss changes to the International Telecommunications Regulations (ITRs), which are a treaty binding set of rules, developed under the auspices of the ITU. Part of the UN, the ITU is an intergovernmental organization whose voting members are 193 nation states. Last discussed and amended in 1988, the stated purpose of the ITRs is to facilitate "global interconnection and interoperability of telecommunication facilities and to promoting the harmonious development and efficient operation of technical facilities, as well as the efficiency, usefulness and availability to the public of international telecommunication services"[1].

Under the process which the ITU has established, proposals from member states for changes to the ITRs for discussion at the WCIT are not required to be submitted until the end of November and there is the potential that yet more proposals and counter-proposals will be put forward during the actual meeting in December. Even though many formal proposals will not be made until close to the start of the conference, one can nevertheless look to a number of existing documents to get a good sense of what may be put forward later. The first is a series of quite accessible background pieces prepared by the ITU itself called "WCIT Background Briefs" as well as a series of presentations made by ITU staff for an Asia Pacific Telecommunity workshop[2] . Extracts of these materials have been copied in the Annex.

The second set of source materials are those done by the Council Working Group (CWG-WCIT) as part of the ITU's WCIT preparatory process. It collated a large number of possible changes to the text of the ITRs from members of the CWG. These proposals were compiled in an ITU document, Temporary Document 64 (TD64). The Internet Society (ISOC), a 'sector member' of the ITU, has prepared an evaluation of these proposals which is available to ISOC members[3] . The ITU subsequently announced that TD64 would be made public, which it did under the title of "Draft of the Future ITRs"[4].

From these sources a number of issues emerge of potential direct interest to ccTLD administrators and their national governments, of which three will be referenced here:

- Internet governance;
- Internet interconnection and settlements regime – whether to both expand the application of the international telecommunications settlements regime to Internet traffic, and
- Cyber security.

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[1] See section 1.3 of the International Telecommunications Regulations, available at http://www.itu.int/pub/T-REG-ACT-1988

[2] See http://www.itu.int/en/wcit-12/Pages/WCIT-backgroundbriefs.aspx and http://www.itu.int/oth/T065B000010/en

[3] See "WCIT Issues Matrix as of June 15 2012" at https://fileshare.tools.isoc.org/wentworth/public/WCIT%20issues%20matrix/WCIT-ISSUES-MATRIX-15June2012.pdf

[4] See "Draft of the Future ITRs', ITU, Geneva, undated available at http://www.itu.int/en/wcit-12/Documents/draft-future-itrs-public.pdf

Internet Governance

While there has been considerable discussion about the possibility of the ITU becoming involved in Internet governance, this is not an issue that has been directly put forward in the above referenced documents. However, many of the issues identified by the ITU in their background briefing materials, including interconnection and interoperability, quality of service, convergence, cyber security/protection of critical national resources, international frameworks and enforcement measures would require the direct involvement of the ITU in Internet matters, clearly implying a role for the organization in both Internet governance and standards setting. Moreover, a resolution passed by ITU members in 2010 called for members "to explore ways and means for greater collaboration and coordination between ITU and relevant organizations (e.g. ICANN, the IETF), involved in the development of IP-based networks and the future internet, through cooperation agreements, as appropriate, in order to increase the role of ITU in Internet governance"[5].

While the ITU has demonstrated success in the management of international telecommunications, spectrum management, and satellite orbital slot allocation, many countries question the appropriateness and effectiveness of the treaty-based international organization model in the Internet governance context. Much of the ITU's success to date can be attributed to the fact that national governments, by virtue of their role as either regulator or provider of telecommunication services, have been, and are likely to remain, heavily involved in telecommunications and radio spectrum management. The ITU model may therefore be appropriate for fostering international cooperation and standards setting in those areas. However, the rapid pace of innovation and development of the Internet can be attributed to its bottom-up management and open standards setting processes and to the limited scope of regulation by national governments. The ITU's top-down decision-making processes run counter to evolutionary approaches to changing technology. Additionally, there is a potential for unrelated higher level state-to-state politics to interfere with Internet governance decision-making> This could curtail the rapid innovation in technology and applications that has characterized the Internet and risk slowing down the development and diffusion of this platform for innovation, creativity, education, entertainment, development and social interaction, including in developing countries. To quote one observer ""The multi-stakeholder approach to internet governance that has generated unmatched economic growth and paved the way for foreign investment for the developing world… That system is not broken, so the delegates to WCIT should not try to fix it by fundamentally altering it.[6]

Internet Interconnection and Settlements Regime

The ITRs establish a settlement regime for telecommunications traffic. However, Article 9 of the treaty, "Special Arrangements', allows for the exchange of certain kinds of traffic outside of the provisions applicable to other telecommunications traffic, most importantly, international IP traffic. This is why

[5] See Resolution 102 from the Plenipotentiary Conference of the International Telecommunication Union (Guadalajara, 2010) at http://www.itu.int/osg/csd/intgov/resoultions_2010/PP-10/RESOLUTION_102.pdf

[6] See "Reining in internet will only widen global digital divide", Bangkok Post, at http://www.bangkokpost.com/business/economics/308480/reining-in-internet-will-only-widen-global-digital-divide

Internet traffic is currently not subject to the accounting rate and settlements regime applicable to voice telephony. In the ITU document "*Draft of the of the Future ITRs*" there are a number of proposals to change the definitions in the ITRs to include the Internet[7] which would have the effect of extending the current 'sending –party-pays model of international settlements for voice telephony to all traffic, including IP traffic. This appears to be intended to increase settlement revenue flows to operators as they would begin to require other networks that send IP traffic across their networks to pay for the right to 'terminate' the traffic. In a recent speech, the Secretary General of the ITU signalled that he would like the ITRs to be expanded to include IP traffic. He stated that:

> *"…at the same time as data volumes are increasing, unit prices are declining, so total revenues for telecommunications operators are potentially at risk….The current international regulatory framework is simply not equipped to deal with these challenges… The revised ITRs should therefore help to encourage broadband roll-out and investment. So it would seem fully appropriate to discuss these matters in Dubai – so that we can find ways to bring down the cost of Internet connectivity in developing countries, while ensuring sufficient revenues for operators to deploy broadband infrastructure.*[8]

This potential change has attracted considerable criticism from a number of quarters. ISOC has concluded that:

> "*Mandating a sending-party-network-pays system of settlements between and among network operators would put at risk the diversity and competition of the communications services marketplace that gave rise to the commercial Internet in the first place*"[9]

Others have been also commented. The Daily News Egypt concluded "*this development would be detrimental, in particular, for the developing world. Many internet service providers would attempt to limit connections with destinations deemed not worth the cost of termination feeds*"[10]. ISOC also notes that "*there is no detailed, objective economic analysis of the sending-party-network-pays settlement proposal that indicates that it will have a beneficial effect on the economic value of the Internet".*

Cyber Security

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[7] see for example CWG/4/54, page 15A of "*Draft of the Future ITRs*" which would include 'Internet traffic termination' in a new definition:

"*2.2A International telecommunication service/ICTs: The offering of a telecommunication capability including, but not limited to: offering of a telecommunication capability in roaming, international public telegram service, telex, traffic termination services (including Internet traffic termination), any kind of circuit provision services, other services integral to provision of international telecommunication services between telecommunication offices or stations of any nature that are in or belong to different countries.*

8 Opening Remarks by ITU Secretary-General , Dr. Hamadoun I. Touré, Council Working Group; WCIT-12, 20 June, 2012, Geneva, Switzerland (http://www.itu.int/en/osg/speeches/Pages/2012-06-20.aspx)

[9] See "Internet Interconnections Proposals For New Interconnection Model Comes Up Short" at http://www.internetsociety.org/internet-interconnections-proposals-new-interconnection-model-comes-short

[10] See "An open, free Internet drives development " at http://thedailynewsegypt.com/2012/08/07/an-open-free-internet-drives-development/

Cyber security is growing problem internationally and many have called for more international collaboration addressing this problem. The ITU's Development Sector has been involved for a number of years in promoting a greater understanding of this problem, especially amongst developing countries. The proposed text for the ITRs included in the document "Draft of Future ITRs' would include cyber security issues within the scope of the treaty[11]. However, the case for including cyber security in a treaty binding instrument like the ITRs has not yet been made. Care must be taken in ensuring that proposals to include cyber security in the ITRs are not in fact attempts to harden network infrastructure in ways that could have wide ranging effects for innovation, connectivity costs, Internet architecture and content delivery. Further, there are considerable concerns that the cyber security text could be used to limit the freedom of expression online in the name of "protecting citizens". [12]

WCIT Process and Informed Decision-making

As already noted, all the actual proposals for amendments to the ITRs are not required to be submitted until the end of November. Under the current ITU procedures, these will not be made public – they may only be seen by national governments and those parties these national governments choose to inform. There is every reason to believe that these proposals will closely resemble those that have been made as part of the preparatory process, which, as noted above, could have substantial and negative impacts on the evolution of the Internet, including limiting its expansion and governance, including by ccTLD managers. In the compressed time frame and high pressure environment of this international treaty negotiation, it may well be virtually impossible to satisfactorily assess the full implications of the treaty binding changes to international telecommunications and Internet policy that will be proposed.

The WCIT – Is it the End of the Internet Governance Debate?

The WCIT is one of a series of ITU and UN sponsored events at which Internet governance has been a featured topic, dating back to at least 2003. At the World Summit of the Information Society (WSIS) in 2003, UN Member States began a discussion of the role of governments and the United Nations in Internet governance and standards. The WCIT will be immediately preceded in Dubai by the World Telecommunications Standard's Assembly, and will be followed by the World Telecommunications Policy Forum in early 2013 which will deal exclusively with Internet public policy. There may be another WSIS meeting, WSIS+10, potentially in the fall of 2012, leading to the ITU's Plenipotentiary Meeting in 2014, at which treaty-binding changes to the ITU's scope and jurisdiction can be made. The above referenced Resolution 102 requires a full reporting and discussion of Internet governance issues at the 2014 Plenipotentiary meeting.

Given the depth of opposition to many of the proposals for change that have been made, many observers suggest that a global consensus for broad, substantive changes to the treaty will not emerge in Dubai. Even if this is happens, the debate will very likely continue at these future UN and ITU

[11] See for example proposal 5A.2, on page 38.

[12] See "United Nations views Flame as cybersecurity opportunity" at http://news.cnet.com/8301-1009_3-57446906-83/united-nations-views-flame-as-cybersecurity-opportunity/ and "The fight for control of the internet has become critical" at http://www.guardian.co.uk/commentisfree/2012/aug/22/fight-control-internet-become-critical?newsfeed=true

meetings. If substantive changes to the ITRs are not achieved in Dubai, there may well be pressure for 'face saving' gestures, such as the insertion of very general principles in the ITRs or non-binding resolutions, in order to achieve some form of consensus and to avoid the meeting being seen to be a failure. The challenge with such 'face saving' gestures is that they will serve to encourage the furtherance of the debate of these issues in these upcoming meetings.

What Can ccTLD Administrators Do?

The more informed the decisions taken at the WCIT, the more likely they are to make sense. CcTLD administrators have the expertise to make a valuable input to the process, to encourage a better, more informed outcome. They are encouraged to engage with those in their national governments who will be attending the WCIT. For those ccTLD administrators who may not be aware of who to contact in their national governments, this information is available on the ITU's website[13]. A draft letter of engagement has been prepared at Annex II that might be used as a basis to initiate the dialogue with the appropriate government representatives.

[13] Go to http://www.itu.int/cgi-bin/htsh/mm/scripts/mm.list?_search=ITUstates&_languageid=1 [14] *WCIT Background Briefs and FAQ*s at http://www.itu.int/en/wcit-12/Pages/WCIT-backgroundbriefs.aspx

ANNEX I

Issues Likely to be Discussed at the WCIT in Dubai

Compilation and Summary of WCIT Issues as Prepared by ITU Staff

The ITU Secretariat has prepared a series of 11 'Background Briefs'[14] on key issues that are expected to be addressed at the WCIT as well as another set of 9 presentations[15] for an ITU workshop on the International Telecommunications Regulations that was held in Bangkok in February 2012. This material is presented in a more or less unabridged manner so as to preserve the intent of the arguments. For the most part, these are verbatim copies of the text, but much text has been deleted for brevity's sake. There was no complete overlap in the categories between the two sets of source materials, so the following adapted categories are being used:

- **Accounting Rates/Telecommunication Origin Identification**
- **Interconnection and Interoperability**
- **Quality of Service**
- **Convergence**
- **Cyber Security and protection of critical national resources**
- **International Frameworks Enforcement measures**
- **Human right to access to communication**

Accounting Rates/Telecommunication Origin Identification

When telephone traffic is exchanged between carriers in different countries, a phone operator that sends more traffic than it receives has to make "settlement payments" to the receiving company. These payments are calculated bilaterally with a formula called an "accounting rate," which is established according to principles set out in the International Telecommunication Regulations (ITRs), complemented by ITU standards ("Recommendations") Accounting rates are only important when there is a significant imbalance in traffic flows. This is the case, for example, in many developing countries that usually receive more traffic (and thus settlement payments) than they send. For instance, ITU estimates that, in 1993-1998, net payments from developed countries to developing ones amounted to some USD 40 billion.

The level of accounting rates can affect carriers' revenues, and thus their ability to offer new services and expand infrastructure — or their incentive to do so, if they have a surplus of traffic in their favour. These latter carriers might to want to retain the current rules; but carriers that have a net traffic deficit tend to be dissatisfied with the accounting rate system.

Although accounting rates are supposed to be based on actual costs, in practice high prices charged for international calls have often been used to subsidize national services. Meanwhile, liberalization and privatization have caused sharp falls in the cost of international connections. This has boosted demand for cheaper services.

At the same time, advances in technology have led more and more traffic to bypass the traditional system by using the Internet (through VoIP services), or by taking the cheapest route for an

[14] *WCIT Background Briefs and FAQ*s at http://www.itu.int/en/wcit-12/Pages/WCIT-backgroundbriefs.aspx
[15] http://www.itu.int/en/wcit-12/Pages/WCIT-backgroundbriefs.aspx

international call — not necessarily the most direct one. In 1988, the ITRs themselves opened the door to this development by allowing, for the first time, private operators to lease lines from state-owned operators and to provide data services, among others.

How to reform the accounting system to reflect these changes has been studied at ITU since 1991, involving industry players alongside representatives of more than 80 countries. For the World Conference on International Telecommunications 2012 (WCIT-12) that will review the ITRs, various proposals on accounting matters have been gathered for consideration:

- The current provisions in the ITRs are still valid and useful, so leave them unchanged.
- Adapt the provisions to today's telecommunication environment: in particular, consider giving greater weight to ITU Recommendations.
- Replace the current, detailed provisions with general principles related to those agreed at the World Trade Organization, especially on transparency and cost-orientation.
- Delete the current provisions: they are no longer appropriate or applicable in a world of privatized and liberalized telecommunications.

In examining the ITRs within the today's liberalized telecommunications environment, WCIT-12 will need to respond to the varied, but growing, expectations of the international community.

There are various ways to determine which phone number, network, operator or country a message is coming from. Through the telecommunication origin identification (TOI) system, it is possible, for example, to authenticate who has access to a service, find the caller's location, or trace malicious calls. The system allows "call-back" services to be provided, and for calls to be logged for accounting purposes.

TOI technology is also important in providing emergency services. However, the system is hampered, not only by criminals wanting to hide their traces, but also when information on a message's origin is suppressed for commercial reasons.

It has been proposed that a provision should be added to the International Telecommunication Regulations (ITRs) to ensure that operators show the number of who is calling, as far as practicable and subject to national laws on the privacy of data. An ITU technical standard (ITU-T E.157) provides general principles for revealing callers' numbers and their origins. Some service providers might misuse phone numbers to inflate their revenues. A common form of misuse is called "short stopping." Calls are routed through a high-cost destination abroad , when they are in fact terminated within a caller's own country. Thus, consumers face excessive charges, typically when connecting to "premium services" such as competitions. And if operators try to block this practice, it can interfere with legitimate access to phone numbers in the foreign country that is on the route.

Some types of misuse are not currently illegal in all countries, and it has been proposed that a provision should be added to the ITRs making it mandatory for administrations to take measures against misuse of telephone numbers.

Review of the ITRs might also include discussion of how new technologies have altered the way that many people make phone calls, and whether regulation is appropriate.

Should alternative calling procedures be encouraged, tolerated, discouraged or prohibited? What can governments, operators and ITU do to protect networks, boost international calling and avoid regulatory chaos? In December 2012, the World Conference on International Telecommunications might debate these issues as it reviews the ITRs.

Interconnection and Interoperability

One of the fundamental principles of the ITRs is that of "interconnection and interoperability" — ensuring that telecommunication systems and equipment in different countries can connect and work with each other. The ITRs say that administrations or relevant private-sector operators should make agreements on providing international connectivity. And promoting interoperability is one of ITU's strategic goals. There is consensus among the ITU membership that interoperability is of prime importance — but how to make it happen is unclear, given today's complex mix of de jure, de facto and proprietary technical standards for systems and equipment. Even when two networks are connected, it does not guarantee that every device or service will be able to run smoothly on both. Products need to be tested to find out whether they conform with a particular standard and so offer the expected performance in a certain environment. This "conformance testing" involves specialized tools and expertise, which are not always available in every country. Equally complex is operational testing, which is normally the final step before a product or system is handed over for commercial use. Numerous players are involved in determining interoperability, with differing needs and agendas. Specific capabilities need to be identified in particular players, as well as potential areas for collaboration among the many interests — public and commercial — that are involved. The World Conference on International Telecommunications 2012 (WCIT-12), convened to review the ITRs, could be where that collaboration is strengthened.

Quality of Service

The ITRs state that administrations shall "provide and maintain, to the greatest extent practicable, a minimum quality of service (QoS). Since the ITRs were agreed in 1988, there has been a fundamental shift away from traditional networks based on dedicated service channels to a single infrastructure based on the Internet protocol (IP) to deliver all services, whether voice, video or data. In modern packet-based networks, quality parameters are mostly undefined and the responsibility for QoS is no longer clear. Basically, in an IP environment, services are applications executed in the equipment of the user, and the networks themselves cannot fully control the end-to-end quality of what is delivered. Agreements might be struck between Internet service providers (ISPs) and companies that offer applications or content, so that better QoS is given to their transmissions over a network, leaving other customers with less. Then there are the so-called "over the top," or OTT, services (such as Skype) that run through the networks "on top" of the basic provision of Internet access. Operators might seek to charge for reserving a percentage of capacity for these services — which is then not available for general access to the Internet.

These developments could make it more difficult, or slower, for users to access certain websites or online services. So should operators of IP networks aim to generate revenues by offering higher QoS at a higher price, even if this has an impact on the average customer? The wider financial implications must be considered. Revenues need to be generated to pay for the expansion of networks, which then contribute to general economic growth. But, according to some studies, operators are no longer likely to achieve the necessary revenues by simply providing core and access networks. Instead, more and more revenue is coming from OTT services. There are proposals to revise the ITRs to replace "minimum quality of service" in Article 4.3 with "satisfactory quality of service," while administrations should ensure that there is transparency in this area so consumers know exactly what they are getting.

Convergence

When the ITRs were agreed in 1988, there was a clear distinction between different services (phone, video, etc.), as well as the means of delivering them. You only ever received voice calls or faxes down the telephone line. Computers mostly had their own networks, and broadcasting was another separate world. Since then, the convergence of technologies, and the appearance of new ones, has changed the landscape dramatically — and the ITRs might need to be changed to reflect this. Proposals concerning convergence are being put forward to the review of the ITRs at the World Conference on International Telecommunications 2012 . Some relate simply to updating the language of the regulations. Other proposals seek to make substantive changes to accommodate convergence, and refer to the need to incorporate "technology neutrality" into the ITRs; that is, dealing even-handedly with different technologies that offer similar services.

Cyber Security and protection of critical national resources

ITU's Constitution and Convention acknowledge the right of a member country to protect its telecommunications and related infrastructure, while taking into consideration the implications of the country's actions upon the global system. Various proposals have been made to modify or increase the scope of such provisions in the ITRs — for example to include avoidance of "financial harm". Proposed provisions on preventing the misuse of numbering resources could also be considered part of protecting critical information infrastructure. Questions surround intangible assets such as numbers, as well as addresses and even commercial agreements. In many jurisdictions, for example, it is not clear who "owns" a telephone number, and what rights users have. Can they sell a number or rent it? Can they insist that it is portable to another service provider? Similar issues may arise concerning Internet names and addresses. Nations often consider that safeguarding their critical infrastructure is closely linked to national sovereignty.

Cyberattacks can originate and strike anywhere around the globe. There have been calls for norms and principles agreed by the international community for acceptable state behavior in cyberspace, international minimum standard of relevant offences and internationally imposed harmonized legal frameworks, where domestic laws contain provisions on international cooperation. Cyber threats are inherently international in scope and require multi-stakeholder international cooperation. Building Security in the use of ICTs require legal, organizational and technical capabilities. Standards can complement the overall efforts, providing interoperability and conformance of security while meeting regulatory constraints of countries and regions. The adoption of common technical standards can also help developing countries and bring them up to speed (bridging the standardization gap). The telecom sector and the Internet are considered as interconnected and interdependent systems. Infrastructures that have been in isolation so far, are being increasingly supported by telecommunication (e.g. industrial automation networks, intelligent transportation systems (ITS), e-government networks) This paradigm shift of interconnected systems makes ICTs susceptible to cyberattacks of unforeseeable impact.

International Frameworks

International Trade Blocks e.g. Global blocks such as the WTO, ITU and Regional blocks such as NAFTA, Mercosur, EU, to define an international telecommunications framework by promoting investments and a competitive market. The WTO Reference Paper analyses several issues like services that can be open for international competition, the categories of business models that would be allowed and whether or not to extend the offer to other countries through most-favored-nation clauses. In 2011, the WTO

initiated discussions regarding the matter of international mobile roaming. The European Union and the United States of America have submitted for consideration to the WTO Council for Trade in Services a set of trade-related principles designed to support the expansion of information and communication technology (ICT) networks and services, and enhance the development of electronic commerce
The ITU Constitution contains several provisions that can be considered as constituting an international framework relevant to telecommunications, including:

- Nos. 180, 181 provide that Member States reserve the right to cut off, in accordance with their national law, any private telecommunications which may appear dangerous to the security of the State or contrary to its laws, to public order or to decency.
- No. 182 provides that each Member State reserves the right to suspend the international telecommunication service, either generally or only for certain relations and/or for certain kinds of correspondence, outgoing, incoming or in transit, provided that it immediately notifies such action to each of the other Member States through the Secretary-General.
- Nos. 184 and 185 provide that Member States agree to take all possible measures, compatible with the system of telecommunication used, with a view to ensuring the secrecy of international correspondence. Nevertheless, they reserve the right to communicate such correspondence to the competent authorities in order to ensure the application of their national laws or the execution of international conventions to which they are parties.

Some take the view that it is necessary to include in the ITRs the future service provisions in a neutral and competitive market and that Member States have a role in ensuring market competition. Others take different views, arguing, in particular, that there is no need to address such issues in the ITRs.

Enforcement measures

The ITRs are a treaty, and unless the treaty specifically provides otherwise, or a reservation has been duly made, a party should adapt its national laws to be consistent with the treaty. However, since States are sovereign, and not subject to any higher authority unless they have specifically agreed to the contrary, there are no generic mechanisms for enforcing treaties. If a State does not comply with the terms of a treaty to which it is a party, then, in general, there is no legal mechanism to oblige it to comply. There are, however, numerous specific enforcement mechanisms that form part of specific treaties.

- bilateral investment treaties
- WTO treaties
- European Convention on Human Rights
- International Court of Justice
- ITU Constitution and Convention

To date, some Member States have suggested that consideration should be given to adding some sort of dispute resolution mechanism to the ITRs, but no specific, concrete proposal has yet been made. It is clear that that the language adopted in 1988 cannot be understood to imply that either Member States or operating agencies have an obligation to comply with CCITT Recommendations. Some of the proposals presented to CWG-WCIT take the view that this situation should be changed, at least with respect to certain specific areas covered by ITU-T Recommendations, and that certain Recommendations should have binding force. International organizations have the external normative authority. The most common approach is treaties/conventions. Certain international organizations are expressly empowered to adopt regulatory texts having a general scope and that do not require ratification as treaties. This derives from a provision of the constitutive act expressly assigning such

competence. WHO can enact health-related regulations ICAO is authorized to adopt international norms and procedures that are binding on its Member States European Union regulations are directly binding on its Member States UN Security Council Resolutions are binding on all members of the UN, even if they are not members of the Security Council.

Human right to access to communication

Several regional and international treaties define freedom of expression as a human right.[16] Access to communication services is not identified as a specific human right by itself, but the treaties cover many dimensions of communication, including the media, access to information, and the influence of information and communication technologies (ICTs). Legitimate restrictions on communication are also defined in some treaties.

Provisions on all these aspects are contained in the International Covenant on Civil and Political Rights, which was adopted by the UN General Assembly in 1966 and is part of the Universal Declaration of Human Rights. It states that "a free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression," and that "the public also has a corresponding right to receive media output." In addition, the treaty states that there is a right of access to information held by public bodies, regardless of how the information is stored or its source.

On ICTs in particular, a comment on the Covenant by the UN Human Rights Committee in 2011 says that signatories "should take account of the extent to which developments in information and communication technologies, such as internet and mobile based electronic information dissemination systems, have substantially changed communication practices around the world. There is now a global network for exchanging ideas and opinions that does not necessarily rely on the traditional mass media intermediaries. States parties should take all necessary steps to foster the independence of these new media and to ensure access of individuals thereto."[17]

In its Article 19, the treaty also makes clear that restrictions on communication can only be imposed according to law and if they are necessary in order to "respect the rights or reputations of others," or to protect national security, public order, or public health or morals.

The International Telecommunication Regulations (ITRs) contain provisions regarding the right to communicate. In particular, Article 3.4 states that "subject to national law, any user, by having access to the international network established by an administration (or recognized private operating agency), has the right to send traffic. A satisfactory quality of service should be maintained to the greatest extent practicable."

The right of the public to access international telecommunication services is also recognized in ITU's Constitution, with conditions defined (such as dangerous to the security of the state) under which services can be stopped.[18]

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[16] International Covenant on Civil and Political Rights (1966), Convention on the Rights of the Child (1989) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), Convention on the Rights of Persons with Disabilities (2006), European Convention on Human Rights (1950) American Convention on Human Rights (1969), African Charter on Human and Peoples' Rights (1981)

[17] OHCHR Human Rights Committee: General Comment 34 on Article 19 (www2.ohchr.org/english/bodies/hrc/comments.htm)

[18] See Articles 33 and 34 of the ITU Constitution (www.itu.int/net/about/basic-texts/index.aspx)

Annex II

Possible Draft of Letter to National Government Administrations

Dear _____ (the names of national government representatives are available at http://www.itu.int/cgi-bin/htsh/mm/scripts/mm.list?_search=ITUstates&_languageid=1

I am writing to you as the representative of our country to the upcoming World Conference on International Telecommunications (WCIT) which will be held in Dubai, U.A.E, from December 3 to 14, 2012.

In the event that you are not fully aware of (insert name of ccTLD administration) we have the responsibility for managing the (cc) domain name in our country as well as for supporting registry, domain name servers and related activities. In this capacity we have developed considerable expert knowledge about both Internet governance and the more detailed aspects of the Internet's operations.

During the preparatory process for the conference a number of proposals were made which would, if agreed to, have a significant impact on the management of the Internet, negatively affect the rapid innovation in technology and applications that has characterized the Internet and risk slowing down the development and diffusion of Internet availability.

We would welcome the opportunity to meet with you to help you prepare for this conference, understand our government's proposed position to the WCIT, as well as offer any assistance we can in analysing proposals that other countries may put forward in that context.

Please do not hesitate to contact me at (telephone number) or (email address) if I can be of assistance.

Sincerely yours,