Internet Society Contribution to the Open Consultation on the Draft Guidelines for the Utilization of the ITU Global Cybersecurity Agenda.

The Internet Society appreciates the opportunity to provide its views on the revised Guidelines for the Utilization of the Global Cybersecurity Agenda (GCA). The GCA embodies several overarching areas that are complimentary with activities in the ITU Development Sector which are aimed at building confidence and security in the use of ICTs. Many of these activities, e.g. Country assistance in establishing National CIRTs, continue to provide an important foundation for the development of national cybersecurity capacity and capabilities. With a fast evolving security landscape, we understand the need to provide guidance on how to utilize the GCA framework and to realize its potential. The Guidelines should support the GCA framework to enhance confidence and security in the use of ICTs.

In 2.9.H. of the section "Utilizing Pillar I - Legal Measures," we would like to particularly note the recommendation, "*Noting that the principle of state sovereignty applies in cyberspace, Member States are encouraged to explore mechanisms that protect the fundamental rights and safety of citizens while also facilitating lawful access to the content of communications where end-to-end encryption has been implemented.*"

The Internet Society believes this recommendation exceeds the mandate of the ITU as set out in Plenipotentiary Resolution 130 (Rev. Dubai 2018) on "Strengthening the role of ITU in building confidence and security in the use of information and communication technologies" *which states that the ITU should focus on "resources and programmes on those national, regional and international areas of cybersecurity within its core mandate and expertise [...]notably the technical and development spheres, and not including areas related to Member States' application of legal or policy principles related to national defense, national security, content and cybercrime, which are within their sovereign rights [...].*"

Further, there is no technical distinction between access to the content of end-to-end encrypted communications by some technical mechanism that is "lawful" from access that is "unlawful. "Lawful access" automatically links to something that is permissible within a certain framework – legal or otherwise. Careful consideration should be given on how such a measure can be misused, even amongst Nation-States to take adversarial actions against another.

Any technical means developed to access communication where end-to-end encryption has been implemented will be dual-use technology and can be used to:

- compromise the private, confidential communications of law enforcement, military personnel, government officials overseeing classified operations, and emergency responders;
- threaten sensitive systems and critical infrastructure intrinsically tied to national security, including systems that power the electrical grid, databases containing confidential data on citizens, and databases of financial institutions critical to the economic stability of sovereign nations;
- put at risk the billions of people and Nation States around the world that rely on encryption every day to keep personal, cultural, economic, and national interests safe and secure.

The recommendation in 2.9.H. for mechanisms that "facilitate lawful access" would weaken the security of the Internet and place the global economy, the critical services many depend on, and

the lives of all citizens at greater risk of harm.[1] Furthermore, it is counterproductive to the ITU Development Sector's activities aimed at building confidence and security in the use of ICTs as this measure specifically allows for undermining the very basic systems that our collective cybersecurity relies on.

In conclusion, the Internet Society's view is that this recommendation should not be a precondition to utilizing legal measures in the GCA and is unnecessary. Additionally, it exceeds the mandate of the ITU as set out in Resolution 130.

About the Internet Society
Founded in 1992 by Internet pioneers, the Internet Society is a global non-profit organization working to ensure the Internet remains a force for good for everyone. Through its community of members, special interest groups, and 120+ chapters around the world, the organization defends and promotes Internet policies, standards, and protocols that keep the Internet open, globally connected, and secure. For more information, please visit: internetsociety.org.

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[1] Global Encryption Coalition, "Breaking Encryption Myths," Nov., 2020 See: https://www.globalencryption.org/2020/11/breaking-encryption-myths/