

## What to Watch at the ITU Plenipotentiary Conference 2014

### **Background**

On October 20th, 2014, the world's governments are convening in Busan, South Korea for the International Telecommunication Union's (ITU) Plenipotentiary Conference (usually called "Plenipot"). During this three week conference (running through November 7) held every four years, member states of the ITU will set the strategic direction and focus areas for the intergovernmental organization for the next four years, examine financial plans, elect new members of the Secretariat leadership, and revise the ITU's Constitution, Charter, and Bylaws as necessary.

While the Plenipot is usually a relatively administrative conference, there is a sense that the 2014 meeting may revisit many of the controversial issues and contentious debates of the World Conference on International Telecommunications (WCIT), an extraordinary treaty conference the ITU hosted in 2012 in order to update the 1988 International Telecommunications Regulations (ITRs). More information and analysis of the WCIT can be found here: <https://www.accessnow.org/wcit>

While the ITU has taken some positive steps recently toward increased transparency and inclusivity, it remains a largely opaque institution where only governments have a voice. As such, it's difficult to know what exactly is being proposed.

Below is an overview of the top procedural and substantive concerns to look out for at the Plenipot as well as recommendations for relevant and productive areas for the ITU to focus its work on in the coming four years.

### **Procedural Concerns**

For at least the past decade, the ITU has been seeking to expand its mandate to cover more internet-related public policy issues. Yet, the ITU lacks the openness and inclusivity needed to meet the best practice standards of multistakeholderism established in the Tunis Agenda. Indeed, the ITU Plenipot is a government meeting that only allows members of government delegations to speak, and though it allows its commercial sector members — who pay steep yearly fees — to attend, they have no speaking rights.

Non-commercial organizations may also join but few can afford the yearly fee. Recently some NGOs have been granted fee waivers. These fee waivers are decided on yearly and thus could be at risk for any organization that goes too far with its advocacy. The ITU needs to establish a reasonable fee structure for NGOs that would allow them to participate openly and without restriction. For most civil society, the only way to participate in Plenipot is to be a member of a national delegation. But as is well known, for many civil society groups around the world this is not a possibility. In other words, aside from a few exceptions, the ITU is a closed intergovernmental organization.

Recently civil society groups in the [Best Bits](#) network sent an [open letter to the ITU](#) asking that the process at the ITU Plenipotentiary meeting of 2014 be opened to non-governmental stakeholders. Specifically, the letter, which Access is a signatory to, called on the ITU to:

1. **Webcast all committee proceedings;**
2. **Open the Plenipotentiary Plenary and Committee Sessions to on-site observers,** regardless of their participation status;
3. **Create an online public contribution platform** (as there was at the WCIT) and register such contributions as official Information Documents to be considered in debates among state parties; and
4. **Highlight the benefits of openness and transparency** in an effort to formalize greater public access to ITU processes and documentation.

A week after the publication of the letter, Secretary-General Touré responded, expressing support for civil society's demands for meaningful participation and openness, but noting that ultimately most of these questions must be decided by the Heads of Delegation (more on that below).

The ongoing work of the ITU, and any work items that may be done according to the strategic plan to be agreed upon in Busan, will likely be closed to non-state actors, unless the ITU changes its policy. Some of the most critical work being done, for example in the ITU Council and its working groups, have remained closed to internet civil society and other stakeholders. Several of the proposals including those from the Regional Commonwealth in the Field of Communications (RCC, consisting mostly of Russia and the former Soviet states) and the League of Arab States (LAS) have recommended that the Council meetings related to internet issues remain closed to all stakeholders except those from member states.

Not only are the working groups closed, many of documents remain inaccessible to all but member states and sector members – the documents we do have been leaked. The fact that in 2014, the world's people [still depend on leaks](#) to get necessary documentation remains one of the scandals of ITU. The members of the ITU do have access to the documents and could theoretically distribute them to their populations, though this rarely happens. The continuing secrecy and closed door nature of the ITU remains a barrier to any consideration of expanding the ITU's role in internet governance and policy.

In response to the civil society letter and due to the support of the ITU Secretary General, the plenary decided to make many of the documents open to the public as well as to provide webcasts of:

- the Plenary meetings,
- the meetings of the Working Group of the Plenary, which will be handling public policy including issues related to the internet,
- meetings of Committee 5 (which handles Policy and Legal matters), and
- meetings of Committee 6 (which handles Administration and Management).

These documents can be found on the ITU site. This is a welcome step forward by the ITU. We hope that this is the first of many such steps at this year's Plenipot.

### **Substantive Concerns**

Most of the substantive concerns with the ITU, beyond those of openness, accountability, and transparency, are resolutions that would expand the agency's mandate into areas of internet governance and policy that fall outside of its existing mandate and core competencies. To be clear, the ITU – in particular ITU-D, the agency's development bureau – has traditionally played an important role in expanding broadband access, ensuring telecommunications interoperability, setting spectrum allocations, and more, some of which touch on aspects of the internet. We are particularly concerned about the ITU having any role in regulating content on the internet or the protocols used to

transmit content on the internet. Simply put, the ITU's nature as an opaque, intergovernmental institution excludes key stakeholders who are affected by internet governance decisions, and there are several other well-established institutions that are doing this work well already.

Below are a few of the top issues we'll be encountering over the next few weeks. We've included brief descriptions of the arguments as well as the proponents and opponents in each debate to the extent known.

Generally speaking, national governments make proposals that then have to be adopted by their respective regional group, which in turn get forwarded to the plenary. While the ITU encourages states to submit proposals in advance, it is possible for proposals to be made on the floor of the conference. The regional groupings are referred to here by their official acronyms:

APT: Asia-Pacific Telecommunity (Headquarters in Thailand)  
CITEL: Inter-American Telecommunications Commission (Headquarters in US)  
ATU: African Telecommunications Union (Headquarters in Kenya)  
LAS: League of Arab States (Headquarters in Egypt)  
RCC: Regional Commonwealth in the field of Communications (Headquarters in Russia)  
CEPT: European Conference of Postal and Telecommunications Administrations

- **Definition of ICT** - Proposals for continued the effort to develop a working definition of ICT. (Document 48, Resolution 140)

The ITU's various governing documents give it purview over Information and Communications Technologies, or ICT, and the definition of this term has to date been understood to exclude the internet. At nearly every ITU meeting there is an attempt by some states to define Information and Communications Technologies, or ICT. Doing so would expand the ITU's mandate to include internet related public policy issues, and since ICT is a term that is used throughout many ITU documents, changing this underlying definition, would have significant ramifications. The ITU council has previously failed to agree on a working definition, and this discussion will continue at Plenipot.

**For:** League of Arab States. This group would not only leave in language dealing with the working definition of ICT, they request the ITU Council "submit a working definition of the term "ICT" to the Council and working groups of the Council, for possible transmission to the next plenipotentiary conference;" ACP also supports continued work on the working definition.

**Against:** EUR IAP and RCC both strike the language dealing with the working definition from the resolution.

- **Cybersecurity** – Proposals to strengthen the role of the ITU in cybersecurity (Resolutions 130, 174, 179, 181)

Under the aegis of the World Summit on the Information Society (WSIS) Action Line C5, the ITU has traditionally had a limited role in cybersecurity, specifically around capacity building, cooperation, and coordination. There are a number of proposals seeking to expand the ITU's role in this area, which may result in threats to internet openness and user rights, particularly given Russia's historic leadership in the ITU's cybersecurity efforts. Specifically, there are proposals that would strengthen "the role of the ITU in building confidence and security in the use of information and communications technologies"; on "ITU's role with regard to international public policy issues relating to the risk of illicit use of information and communication technologies"; and "Definitions and terminology relating to

building confidence and security in the use of ICTs.” There are also calls for a treaty that would likely threaten content on the internet and further erode privacy on the internet.

**Pro** – Arab States, Cuba, RCC

**Against** - USA

**Complication** - Brazil has [recommended language changes to resolution 130](#) to increase the scope of ITU cybersecurity work to include human rights and privacy. While it is important that all cybersecurity issues be grounded in human rights, expansion of the scope of ITU is a risk.

**Alternative** - Work being done in the IETF and in other internet organizations to produce protocol changes that mitigate the threats combined with the expansion of CIRTs and CSIRTs and private sector initiatives like the Messaging, Malware and Mobile Anti-Abuse Working Group (M<sup>3</sup>AAWG) are already effectively addressing many of the challenges these proposals speak to. A more relevant and useful area for the ITU to focus on is increasing capacity development efforts to ensure member states are able to mitigate threats and protect their networks. Both the Cuban and the RCC proposal support such capacity building, but they also go beyond that by recommending that the ITU become more active in technical and operational issues.

- **Internet of Things** – Facilitating Internet of Things (IOT) to prepare for a globally Connected World. (Resolution ACP-2 67A1)

APT has proposed a new resolution on facilitating the Internet of Things (IOT) as part of a globally connected world. Even as these technologies are being rapidly developed, these connected devices are communicating on spectrum bands reserved for ISM (industrial, scientific and medical) applications and the allocation of spectrum for IMT (International Mobile Telecommunications) services. The proposal calls for best practices, studies, and other work to address security and interoperability to foster IOT, including inviting the next World Radiocommunication Conference to consider the necessity to study the requirement to allocate spectrum for IOT as appropriate. We believe that the ITU could have an important role in facilitating enabling technologies and promoting the improvement of technical infrastructure in this arena. However, we are concerned that the language around security and interoperability may be used as a guise to involve the ITU in the regulation of content transmitted over these devices. Given that this proposal originated with the Republic of Korea, which is the host of this Plenipot, there will likely be an interest in including a proposal around IOT in the ITU Strategic Plan.

**Pro** - APT

- **Internet Applications** – Changes to the ITU’s role with regard to international public policy issue pertaining to the internet and the management of internet resources, including domain names and addresses (Resolution 102).

Among the many changes proposed to Resolution 102 [ITU’s role with regard to international public policy issue pertaining to the Internet and the management of Internet resources, including domain names and addresses](#), the LAS have proposed the development of standards on regulatory, policy and technical aspects of Over The Top (OTT) services (applications like WhatsApp and Netflix that run over internet). In their recommended changes to Resolution 102, the LAS also recommend that the ITU take a leadership role in the changes involved in transitioning the control of IANA from the U.S. government within a multistakeholder framework. Multilateral control of the internet poses a risk to the openness of the internet and would cause the loss of the multistakeholder cooperation that has allowed the internet to thrive as a globally shared public resource. In respect to the IANA transition, while the ITU itself and the member states are stakeholders, with national governments in particular having a role in the

management and governance of critical internet resources and the stewardship of those resources, any attempt by the ITU to gain a leadership role in this process would threaten the development of an acceptable multistakeholder model for the transition of the stewardship of these resources, resulting in the possible loss of this opportunity, an opportunity desired by most of the Internet's stakeholders.

**Pro** – LAS

**Against** – USA

**Recommendations, positive agenda, and what we actually think the ITU should do**

While it is not appropriate for the ITU to assume the role many member states wish for it vis-a-vis the internet, there are useful and productive areas within the agency's current mandate that the ITU can and should focus on over the next four years:

- Continuing and expanding upon ITU-D's globally-leading work to expand access to the internet and build out internet and telecommunications infrastructure.
  - Promoting North-South and South-South knowledge and technology transfer and human resource development and training, in line with the Tunis Agenda.
  - Build off of the WCIT resolution on access to fiber optic cable for landlocked countries. As outlined in the [Draft Programme of Action for Landlocked Developing Countries for the Decade 2014-2024](#), ITU should provide “necessary financial and capacity-building support to landlocked developing countries in a well-coordinated and coherent manner.” Priorities in these countries where ITU support can be necessary include “improving access to high-capacity international fiber optic cable networks” and “laying high-bandwidth backbone networks to connect towns and cities within countries.”
  - Broadband development and bridging the “new” digital divide between those who have access to high quality broadband and those who connect via relatively expensive and low-cost GPRS.
  - In line with the [Programme of Action for the Least Developed Countries for the Decade 2011-2020](#), continue efforts to “Significantly increase access to telecommunication services and strive to provide 100 per cent access to the Internet by 2020;
- Under the aegis of WSIS Action Line C5 on cybersecurity, promote the development, coordination, and appropriate resourcing of CERTs and CSIRTs. Complemented by corresponding resolutions focused on increasing cybersecurity capacity, including the spread of protocols and applications that mitigate cybersecurity threats, this could be a very strong bulwark against the increasing militarization of cybersecurity.
- Support for the equality of women and increased participation of women and youth in the ICT fields. Efforts by *the Broadband Commission for Digital Development* – which is co-sponsored by the ITU and UNESCO – and the *Working Group on Broadband and Gender* should be supported. Most recently, this working group convened last month to come up with [a list of measures](#), which should be endorsed and implemented by ITU in order to tackle gender-based digital divide. These measures include:
  - Integrating Gender and National ICT and Broadband Policies.
  - Improving Sex-Disaggregated ICT Statistics and Measurement.
  - Taking Steps to Boost the Affordability and Usability of ICT Products and Services.
  - Improving Relevant and Local Content Online.
  - Initiating an Action Plan to achieve gender equality in access to broadband by 2020.

- Promote efforts to include access to information in the Post-2015 Sustainable Development Goals Framework in line with the [Lyon Declaration on Access to Information and Development](#).
- The ITU is encouraged to open the WSIS+10 review to all stakeholders on an equal footing.

### **Conclusion**

The 2014 ITU Plenipotentiary meeting has just begun. One of its first acts was to open up the documents for the conference to the public. This is a hopeful sign. The most important issues of the Plenipot involve preserving the open, multistakeholder model of the internet and achieving the goal of affordable, open, and secure access for the world's peoples. Several civil society groups have produced a set of recommendations to the Plenipot. These are currently open for endorsement, and Access has endorsed these recommendations as well.

As the ITU Plenipot proceeds, Access will continue to monitor and to report. Check for updates on our blog: <https://www.accessnow.org/blog>

To reach the Access team, including those who will be present in Busan during parts of the Plenipot, please email [plenipot@accessnow.org](mailto:plenipot@accessnow.org) or call +1 888 414 0100.

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