

# ITU Plenipotentiary 2014:

## Impressions and analysis of outcomes

by Avri Doria

*After weeks of heated discussions, the International Telecommunications Union Plenipotentiary Conference closed on November 7th, ending on a significantly lighter note than the controversial 2012 World Conference on International Telecommunications ([WCIT](#)). Internet governance expert Avri Doria attended the conference in Busan, South Korea, better known as “the Plenipot,” on behalf of Access. Below are her impressions of the outcomes of the conference.*

### Introduction

A tape loop of pop, classical, and trance music is blaring through the conference room as I await an important announcement on Palestinian and Ukraine Internet issues. I came to this meeting as a member of the U.S. delegation as this was the only way to attend the meetings in person (the ITU rules only allow civil society representatives to participate via national delegations). Except for what I was able to say inside the delegation and to colleagues, I pretty much took an oath of silence for the duration of the event.

For those of you who are new to the ITU, this three-week conference is held once every four years, where member states set the strategic direction for the intergovernmental organization, examine financial plans, elect new members of the Secretariat leadership, and may even revise the ITU’s constitution, charter, or bylaws.

Since the WCIT in 2012, many have feared that the Plenipot would end in another crisis, or worse yet would result in the destruction of the Internet as we know it. Instead the conference ended in harmony with the Internet unscathed. In fact, it is possible that the Internet is better off now as the ITU has seemingly found its role in the complex world of Internet governance and has clarified its responsibilities under its current mandate particularly around development and capacity building. Furthermore, there

seemed to be an acknowledgement that the ITU's mandate does not and should not extend to regulating content.

In summary, this was a successful Plenipot conference. The participating countries reached consensus and everyone left having achieved at least some of their goals. Neither the ITU constitution nor the charter were changed, a good thing because changes may very well have expanded the ITU's mandate into issues of Internet policy that are best dealt with by other existing institutions. In addition, the ITU gained a better understanding of the need to work with the many stakeholders within the Internet ecosystem, as well as the ways through which it can have a positive impact on some issues that fall within its mandate. Significant gains were also achieved in terms of opening up some ITU processes and access to documents.

What follows is a more detailed list of the outcomes and major points of conversation at the Plenipot.

## **Counterfeiting of devices**

Resolution Com5/4 (Busan, 2014)

One of the new resolutions that came out of this conference was “Combating counterfeit telecommunication/information and communication technology devices.”

In the name of preventing the use of counterfeit mobile phones and other unlicensed devices, some states [proposed](#) for the ITU to create a centralized database of every connected device and the identity of who it was registered to. Early versions of the resolution contained reference to “unauthorized devices,” which could be interpreted to mean any device a government does not approve of, and would have legitimized states taking action to shut down unlicensed equipment. In addition to the serious privacy concerns such a centralized database would entail, since unlicensed equipment is often the only means of connecting for millions of users around the world, this proposal would have very likely lead to them losing access to the Internet and the Web.

Fortunately, the final resolution eliminated all reference to unlicensed equipment, a centralized database of registered products, and other dangerous proposals. This is a success that needs to be guarded and preserved.

## **Cybersecurity and surveillance**

Resolution 130 (Rev Busan, 2014)

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. So this issue was approached by Plenipot delegates with a combination of anticipation and dread. Cybersecurity was officially discussed at the conference through proposed amendments to Resolution 130 for “strengthening the role of ITU in building confidence and security in the use of information and communication technologies.”

On one hand, delegates anticipated that member states might use this as an opportunity to seriously criticize surveillance practices and admonish the use of telecommunications for such activities. The final text contained nothing of the sort, including only a reference to last year’s UNGA resolution ([68/167](#)) on the right to privacy in the digital age.

On the other hand, member states also concluded to continue focusing the ITU’s cybersecurity initiatives to capacity building and instructed the secretary general to continue to review the work being done in the WSIS+10 review process. While this is a preservation of the status quo, it’s worth celebrating that the delegates did not embark on a global treaty on cybersecurity or otherwise expand the ITU’s mandate into areas of content control.

## **More on Internet related issues**

Resolution 101 (Rev Busan, 2014)

There were fears about the ITU trying to go beyond its appropriate role of providing capacity building and trying to have a broader role in the management of Internet resources, including domain names and addresses -- a function historically played by the Internet Corporation for Assigned Names and Numbers (ICANN). In this plenipot, there was no expansion of ITU’s mandate into this area. Resolution 101 entitled “Internet Protocol-based networks” remained mostly unchanged, with a focus on enhancing ITU’s collaboration with relevant organizations including the Internet Society (ISOC) and the Internet Engineering Taskforce (IETF), who are like ICANN deeply involved in the day-to-day management and governance of the Internet.

Resolution 102 (Rev Busan, 2014)

The eight page long Resolution 102 addressed the “ITU's role with regard to international public policy issues pertaining to the Internet and the management of Internet resources, including domain names and addresses.”

The main question of critical importance to civil society in this resolution was on the next four-year agenda of the Council Working Group on International Internet-Related Public Policy Issues (CWG-Internet), which is still only open to member states. However, delegates acknowledged the need to hold open consultations, which will engage all stakeholders. This will provide an opportunity for the voices of users around the world to be heard in the otherwise closed meetings of ITU member states.

It is important to note that over the next year, an open consultation process will be implemented and provide civil society with an opportunity to submit inputs, which civil society and other stakeholder should not fail to take advantage of. More specifically, CWG-Internet will be taking up substantive Internet governance issues three times a year for serious discussion and perhaps decisions, and each of the CWG-Internet meetings will be preceded by a one day open consultation. However, according to the resolution, CWG-Internet will decide on the issues that will be opened to consultation, showing the limits to the inclusiveness and openness that can be achieved in an intergovernmental organization such as the ITU. The CWG-Internet has, however, been empowered to make decisions on the degree to which it further opens its proceedings. Civil Society will have the opportunity to continue pressing for greater openness at each of these consultations.

## **On transparency**

As described in the Access [Halftime Update](#) on the Plenipot, there have been clear achievements in transparency, thanks in no small part to civil society efforts including a [letter](#) submitted by the Best Bits coalition. Much of the meeting was broadcast online and transcripts of many session were made [available](#). In part due to civil society pressure in meeting after the meeting with ITU leadership, partly due to [WCITLeaks](#), and partly due to a few supportive governments, all input and [output documents](#) from the ITU and similar meetings are to be made freely available. This is a good start.

Unfortunately, the ITU still considers working documents and ad hoc meetings too sensitive to be made public, as they insist that member states need privacy in order negotiate and to make their most extreme points without transparency –otherwise they

might be constrained and never be able to come to consensus. Given the success of WCITLeaks, it is likely the policy on working documents may also change one day.

We welcome these the improvements, but civil society should continue pushing for more.

## India's proposal

India's proposal was one of the rare proposals which was not supported by the member state's own regional working group – in this case, the [Asia Pacific Telecommunity](#) (APT). This proposed new resolution entitled “ITU's role in realizing secure information society” ([98/1](#)) aimed to keep data traffic inside the countries' boundaries and control naming and addressing in order to support traceability and control of routing. The purpose of this proposal had mixed legitimacy. There is a reasonable desire on the part of a country to keep traffic in country, assuming they can get the best bandwidth and cost for bandwidth by doing so. The suggestion in this resolution went beyond that, however. The suggestions made in the resolution were also technologically impractical given the current Internet architecture. As such, many interpreted this as a demand by India to redesign the Internet. One does not change Internet architecture by fiat at the ITU Plenipot or at any meeting.

Indian representatives have argued that the demand for redesign of the Internet was a reductio ad absurdum argument and was never the intent of India's proposed resolution. They described it as a desire to meet the legal security demands of the law within their nation. Given the technical implications involved, it's hard to see the nuance here.

This subject, however, is not closed; it can and will be back in consideration by CWG-Internet over the coming years. That was the deal that was made to keep this out of the Plenipot outcome documents. Starting in 2015, there will be discussions on how some of the goals of this proposal might be partially met using current technology and other ways to progress the issues raised by the Indian government in this proposal.

## Internet of Things (IoT)

Resolution WG-PL/3 (Busan, 2014)

A [proposal](#) by South Korea, the host country, on the Internet of Things (IoT) received significant debate at the Plenipot. While many have been calling IoT “the technology of the future” for some time, these technologies are now actually becoming increasingly prevalent. There are a bevy of issues involved with the IoT in terms privacy

considerations, but these were not the issues being discussed in Busan. Two questions were central to this resolution: Which regulatory bodies, if any, should be charged with continuing standardization work in this area? And should spectrum be specifically allocated to IoT services – IoT devices are currently by and large communicating on spectrum bands reserved for ISM (industrial, scientific and medical) applications and the allocation of spectrum for IMT (International Mobile Telecommunications) services?

Industry is certainly split on these issue. South Korean industries have apparently made a decision that they will focus on the ITU as much as possible for standardization. Western companies, by way of contrast, tend to be working any of a number of other organizations including the IETF (Internet Engineering Task Force), the Institute of Electrical and Electronics Engineers (IEEE), ETSI (European Telecommunications Standards Institute), and an alphabet soup of other entities. Additionally, there are unresolved arguments on whether the IoT is just another application overlay for the Internet as we know it, or is a fundamentally differentiated new service that falls beyond the scope of already existing protocols and regulations.

In the end, even though the South Koreans did not succeed in initiating work on specific spectrum allocations for IoT, most of their proposal was accepted. The resolution in the final acts authorizes the ITU to continue to work on IoT and to cooperate with other entities engaged in “IoT and IoT services.”

It is important to note that yearly reports on the work in IoT are to be submitted to the ITU Council. This is an issue that is just starting to be discussed in earnest at the ITU, and the resolution on IoT in the final acts will be the subject of further revision at future ITU meetings. In particular, ITU watchers should watch out for claims of spectrum requirements for IoT *services*.

## **Future of WSIS**

Resolution 140 (Rev. Busan 2014)

The WSIS process, which culminated in the 2005 [Tunis Agenda](#), is currently in the process of its 10 year review. In this document, the ITU is specifically responsible for several action lines and more generally tracking progress towards the goals set out in the Tunis Agenda. This resolution was made in anticipation of an upcoming UN General Assembly decision expected in December, but there is little doubt that the WSIS+10 review process will acknowledge what work has been done, realize what still needs to be done, and instruct the ITU and other UN organizations to continue this work. Since the Plenipot, it has also become apparent that many actors are

considering folding considerations of the future of the Internet Governance Forum (IGF) – the IGF’s mandate expires next year – into discussions of the WSIS+10 review.

It’s worth noting that the ITU uses the WSIS as a place for work that may not fall strictly in its mandate, but in the knowledge that work ordered by the UNGA is work that gets to be done. To that end, civil society needs to redouble its engagement with the WSIS+10 review process moving forward. The [Multistakeholder Preparatory Platform](#) (MPP) of WSIS is seen by ITU as successful and as a clear indicator of ITU’s new-found multistakeholder nature. While we are somewhat skeptical of these claims, I am hoping they continue these multistakeholder processes and that we all learn how better to take advantage of them. I expect WSIS will be continuing until at least WSIS+20.

## **Definition of ICT**

The definition of ICT had a single line in the final report; no definition was provided today nor will be into the foreseeable future. This is a great relief, as 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. Defining ICT to explicitly include the Internet would have expanded 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.

While this issue seems to have been put to rest for now, it should remain on the watch list, especially as the WSIS+10 process unfolds as many states may continue to equate ICT with the Internet.

## **Next WCIT**

Resolution 146 (Rev. Busan 2014)

There were those who wanted to regularly schedule the World Conference on International Telecommunication (WCIT) events, where revisions to the International Telecommunications Regulations – a binding treaty on telecommunications provision and interoperability – would be considered. The decision was that a WCIT could not be scheduled without an initial review to decide whether it is necessary. These reviews need to be done at a Plenipot, so decision on the next WCIT is stalled at least until 2018.

## **Budgetary problems**

There is a budget shortfall as some countries lowered the projected contributions for the next few years. Naturally, every new proposal over the next four years, until the next plenipotentiary conference, will be subject to question on its effect on the budget. This alone shows the power of the purse in keeping the ITU within its mandate. Additionally, the member states can reward the ITU for making favorable decisions by providing supplemental funding, as was done by China to celebrate the election of the new Secretary General.

## **On human rights**

Protection and extension of human rights was not the focus of this Plenipot. Many of the issues discussed had human rights aspects, but whenever human rights were brought up, it was often in the service of one side of the argument or the other. Often both sides of an issue argued that their position stemmed from a human rights concern. Yet, it often seemed that many member states did not see human rights as important in their own respect, only as a tool in other arguments such as the right to entrepreneurship or the sovereign states' alleged responsibility to surveil, but obviously never phrased in such stark terms. Indeed, this is a trend in many of today's Internet governance debates. The opening to discuss human rights exists in the ITU, and civil society and other actors should continue to push for this to be a critical aspect of Internet governance.

## **Multistakeholderism and the ITU**

One of the well known disadvantages to the ITU having a serious role in Internet governance, is that it is not a multistakeholder organization. An important consequence is that there are few opportunities for civil society input. With its praise of the WSIS-related Multistakeholder Preparatory Platform (MPP) and the newly established open consultation processes for the CWG-Internet, it is obvious that ITU is trying to consider itself a multistakeholder organization. Civil society should continue to build on these improvements, while acknowledging the limits, which include the fact that the ITU is inherently an intergovernmental organization. However, thinking of the ITU as a single stakeholder organization would also be a mistake. Many powerful telecommunications companies are sector members. These multinational companies participate in the ITU, not only as sector members, but by placing as many of their employees as practical in many member states' delegations. This allows for significant influence, influence civil society does not have.

## Gender and Geographical Diversity

Discussions on Decision 11 on the need to diversify the ITU's leadership in terms of gender and geographic representation, was concerning to say the least. The conversation was couched in terms of needing to weight competence against gender and geographical diversity. The fact that the ITU as a whole as well as all of its components could not be competent without bottom-up gender and geographical diversity was a view not represented in the room. Nowhere in the weeks I followed the Plenipot did I hear of a need for bottom-up governance. The ITU does have a ways to go yet.

## Conclusion

The ITU has overcome the problems of WCIT, giving rise to a possibility of becoming a significant stakeholder in the Internet environment going forward. If this is going to happen, it is important for them to evolve to become ever more inclusive and transparent, and for them to understand that until they do so, their presence will always be suspect. Civil society needs to keep pounding on the doors for its stakeholder mechanisms to take up the challenge of organizing for the ongoing work of shepherding the ITU in a direction that truly benefits the public interest. The ITU has an important role in development and in capacity building, as it has the organizational acumen to take on these massive tasks. It is time it focused on these tasks and civil society has a significant role in continuing to help them to do so.

*For reference, all decisions and resolutions that came out of the 2014 Plenipotentiary Conference can be found [here](#).*

Access (AccessNow.org) is an international organization that defends and extends the digital rights of users at risk around the world. By combining innovative policy, user engagement, and direct technical support we fight for open and secure communications for all.