

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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MEMORANDUM

February 1, 2013

To: Subcommittee on Communications and Technology Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Subcommittee Hearing on “Fighting for Internet Freedom: Dubai and Beyond”

On Tuesday, February 5, 2013, at 10:30 a.m. in room 2123 of the Rayburn House Office Building, the Subcommittee on Communications and Technology will hold a joint hearing with the Committee on Foreign Affairs Subcommittee on Terrorism, Nonproliferation, and Trade and the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations titled “Fighting for Internet Freedom: Dubai and Beyond.” The hearing will examine the measures considered by the International Telecommunication Union (ITU) at the World Conference on International Telecommunications (WCIT) in December 2012. It will also consider legislation stating U.S. policy regarding global Internet governance. This memorandum provides a summary of proposals and outcomes from the WCIT. The Democratic Committee staff memo from the May 29, 2012, hearing titled “International Proposals to Regulate the Internet” provides additional background and is attached.

I. SUMMARY OF OUTCOMES AT THE WORLD CONFERENCE ON INTERNATIONAL TELECOMMUNICATIONS (WCIT)

In December 2012, the ITU hosted the WCIT in Dubai, Arab Emirates, representing the first time ITU member states were able to revise the International Telecommunication Regulations (ITRs) since 1988.¹ A simple majority of member states is required to approve

¹ See David A. Gross and Ethan Lucarelli, *The 2012 World Conference on International Telecommunications: Another Brewing Storm Over Potential UN Regulation of the Internet* (Nov. 2011) (online at www.whoswholegal.com/news/features/article/29378/the-2012-world-conference-international-telecommunications-brewing-storm-potential-un-regulation-internet/). The ITRs set the basic terms for interconnection of international telephone networks.

changes to the ITRs² and approximately 144 out of 193 member states participated in the conference. After two weeks of deliberation, the United States and 54 other member states either declined to sign the final treaty or deferred a decision.³ For the 89 signatory member states, the treaty will formally come into effect on January 1, 2015.⁴

Of the proposals ultimately adopted at the WCIT, the U.S. delegation strongly objected to efforts that would extend the scope of the ITRs to cover Internet governance or content.⁵ Rather than focusing on promoting global telecommunications interconnectivity, as the United States has consistently advocated, the treaty included language that would give member states responsibilities to ensure the “security and robustness” of international telecommunications services, assert control over “unsolicited bulk electronic communications,” and establish “human rights” to access telecommunications.⁶ The treaty would also expand the scope of the ITRs to potentially include a broader group of providers (known as “authorized operating agencies”) than those providers that were subject to the 1988 treaty.⁷ In addition, two non-binding resolutions were adopted that would expand the role of the ITU to “foster an enabling environment for the greater growth of the Internet” as well as open the door for ITU member states to inject themselves into private commercial agreements for international telecommunications traffic.⁸

² See Robert M. McDowell, *The U.N. Threat to Internet Freedom*, *The Wall Street Journal* (Feb. 21, 2012).

³ Philip Verveer, *U.S. Engagement at the World Conference on International Telecommunications*, U.S. Department of State Blog (Dec. 21, 2012) (online at blogs.state.gov/index.php/site/entry/wcit_2012). This group of nations includes the United States, Canada, almost all of Europe, India, Japan, Kenya, the Philippines, Israel, Australia, New Zealand, as well as Central and South American states like Colombia, Peru, and Chile.

⁴ The signatory member states included Russia, China, nations in the Middle East, Africa, Asia, and South America.

⁵ Philip Verveer, *U.S. Engagement at the World Conference on International Telecommunications*, U.S. Department of State Blog (Dec. 21, 2012) (online at blogs.state.gov/index.php/site/entry/wcit_2012).

⁶ See Internet Society, *WCIT Daily Updates from Dubai* (Dec. 14, 2012) (online at www.internetsociety.org/wcit-daily-updates). See also Sherwin Siy, *On the Results at the WCIT*, Public Knowledge Policy Blog (Dec. 14, 2012) (online at publicknowledge.org/blog/results-wcit).

⁷ *Id.* For example, the Department of Defense, as operator of SIPRNet and NIPRNet, could potentially be covered by this new definition.

⁸ *Id.*

Nevertheless, the conference produced several positive outcomes from the U.S. perspective. First, the conference highlighted the commitment from many member states to the “inclusive multi-stakeholder Internet governance model.”⁹ Second, it showed “broad and deep support for broadband deployment facilitated by open, liberalized markets.”¹⁰ The treaty also modernizes accounting rate provisions for traditional telecom traffic arrangements and encourages transparency and competition on mobile roaming services. In addition, multiple efforts to institute governmental control over key aspects of Internet governance, such as naming and numbering, Internet traffic routing, and Internet Protocol interconnection were all rejected.

II. UPCOMING ACTIVITIES

Following the conclusion of the WCIT, the Obama Administration reiterated that the United States “believes that expanded global access to telecommunications services and broadband Internet – combined with an inclusive Internet governance model – remains the best path towards economic growth that benefits everyone.”¹¹ Former Ambassador Philip Verveer, who served as U.S. Coordinator for International Communications and Information Policy during the WCIT negotiations, stated that the United States will “continue to engage with other countries and international stakeholders on [the Internet, broadband development, and international telecommunications interconnectivity] through the multi-stakeholder process, as well as in intergovernmental forums like the ITU.”¹² These issues will likely reemerge during the Fifth World Telecommunications/Information and Communication Technology Policy Forum (WTPF) scheduled to take place in Geneva, Switzerland in May 2013, as well as the ITU Plenipotentiary in 2014.

III. CONGRESSIONAL ACTIVITIES

On December 5, 2012, Congress unanimously passed S. Con. Res. 50, a concurrent resolution “expressing the sense of Congress regarding actions to preserve and advance the

⁹ See Philip Verveer, *U.S. Engagement at the World Conference on International Telecommunications*, U.S. Department of State Blog (Dec. 21, 2012) (online at blogs.state.gov/index.php/site/entry/wcit_2012).

¹⁰ *Id.*

¹¹ Michael Daniel, *A Principled Stance on the Internet’s Future*, The White House Blog (Dec. 21, 2012) (online at www.whitehouse.gov/blog/2012/12/21/principled-stance-internet-s-future).

¹² Philip Verveer, *U.S. Engagement at the World Conference on International Telecommunications*, U.S. Department of State Blog (Dec. 21, 2012) (online at blogs.state.gov/index.php/site/entry/wcit_2012).

multi-stakeholder governance model under which the Internet has thrived.”¹³ The resolution closely mirrored H. Con. Res. 127, a bipartisan resolution introduced by members of the House Energy and Commerce Committee on May 30, 2012. The resolution directs the Secretary of State, in consultation with the Secretary of Commerce, to continue to promote a global Internet free from government control and preserve and advance the successful multi-stakeholder model that governs the Internet today.

During the hearing, a draft resolution will be considered that would establish a U.S. policy regarding Internet governance. The draft legislation states that it is “the policy of the United States to promote a global Internet free from government control and to preserve and advance the successful multi-stakeholder model that governs the Internet.” The bill closely resembles S. Con. Res. 50.

IV. WITNESSES

The following witnesses have been invited to testify:

Commissioner Robert McDowell
Federal Communications Commission

Ambassador David A. Gross
Former U.S. Coordinator for International Communications and Information Policy
U.S. Department of State
On Behalf of the World Conference on International Telecommunications Ad Hoc Working Group

Ms. Sally Shipman Wentworth
Senior Manager, Public Policy
Internet Society

Mr. Harold Feld
Senior Vice President
Public Knowledge

Dr. Bitange Ndemo
Permanent Secretary in the Kenyan Ministry of Information and Communications and a Director of the Communications Commission of Kenya

¹³ S. Con. Res. 50, 112th Cong. (2012).