The World Conference on International Telecommunications welcomed around 1600 delegates from 151 Member States

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New regulations promise better connectivity for all

Eighty-nine countries sign updated treaty on International Telecommunication Regulations

Executive summary

The World Conference on International Telecommunications (WCIT-12), which worked hard to revise the International Telecommunication Regulations (ITRs), ended on 14 December, having welcomed around 1600 delegates from 151 Member States, including some 70 ministers, deputy ministers and ambassadors. A total of 1275 proposals were submitted by Member States. The Regulations were first adopted at the World Administrative Telegraph and Telephone Conference in Melbourne, Australia, in 1988 and have driven phenomenal growth across the information and communication technology (ICT) sector.

Of the 144 Member States with the credentials to sign on behalf of their country, 89 signed the treaty (see table). Fifty-five States did not sign either because they did not agree with the document in its current form or because they needed to go back to their capitals for formal agreement or to submit the document to public consultation.

"A clear majority of Member States has already signed the new treaty and these countries represent not just most of the world's people, but the great majority of the world's unconnected people. We understand that some Member States need to go to their capitals and constituencies before they can accede to the new ITRs. But we do hope that they will soon come and join

Eighty-nine countries sign updated treaty

Signatories are shown in green (in French alphabetical order)					
Afghanistan	Albania	Algeria	Germany	Andorra	Angola
Saudi Arabia	Argentina	Armenia	Australia	Austria	Azerbaijan
Bahrain	Bangladesh	Barbados	Belarus	Belgium	Belize
Benin	Bhutan	Botswana	Brazil	Brunei Darussalam	Bulgaria
Burkina Faso	Burundi	Cambodia	Canada	Cape Verde	Central African Republic
Chile	China	Cyprus	Colombia	Comoros	Republic of the Congo
Republic of Korea	Costa Rica	Côte d'Ivoire	Croatia	Cuba	Denmark
Djibouti	Dominican Republic	Egypt	El Salvador	United Arab Emirates	Spain
Estonia	United States	Russian Federation	Finland	France	Gabon
Gambia	Georgia	Ghana	Greece	Guatemala	Guyana
Haiti	Hungary	India	Indonesia	Islamic Republic of Iran	Iraq
Ireland	Israel	Italy	Jamaica	Japan	Jordan
Kazakhstan	Kenya	Kuwait	Lesotho	Latvia	Lebanon
Liberia	Libya	Liechtenstein	Lithuania	Luxembourg	Malaysia
Malawi	Mali	Malta	Morocco	Marshall Islands	Mauritius
Mexico	Moldova	Mongolia	Montenegro	Mozambique	Namibia
Republic of Nepal	Niger	Nigeria	Norway	New Zealand	Oman
Uganda	Uzbekistan	Panama	Papua New Guinea	Paraguay	Netherlands
Peru	Philippines	Poland	Portugal	Qatar	Kyrgyzstan
Slovakia	Czech Republic	United Kingdom	Rwanda	Saint Lucia	Senegal
Serbia	Sierra Leone	Singapore	Slovenia	Somalia	Sudan
South Sudan	Sri Lanka	South Africa	Sweden	Switzerland	Swaziland
Tanzania	Thailand	Togo	Trinidad and Tobago	Tunisia	Turkey
Ukraine	Uruguay	Venezuela	Viet Nam	Yemen	Zimbabwe

the majority by acceding to the treaty, when the time is right, and help usher in a world where opportunities for investment in new infrastructure abound, and where consumers can take advantage of new benefits such as reduced roaming charges," said Dr Hamadoun I. Touré, Secretary-General of ITU, following the signing ceremony.

The new treaty comprises ten articles, covering: Purpose and scope of the Regulations; definitions; international network; international telecommunication services; safety of life and priority of telecommunications; security and robustness of networks; unsolicited bulk electronic communications; charging and accounting; suspension of services; dissemination of information; energy efficiency and e-waste; accessibility; special arrangements; and final provisions.

In annex to these articles, which form the treaty text, are two appendices. Appendix 1 provides general provisions concerning accounting, and Appendix 2 relates to maritime telecommunications.

In addition, WCIT-12 adopted five new resolutions which are not part of the treaty text.

These resolutions cover "Special measures for landlocked developing countries and small-island developing States for access to international optical fibre networks"; "Globally harmonized national number for access to emergency services"; "(Fostering) an enabling environment for the greater growth of the Internet";

"Periodic review of the International Telecommunication Regulations"; and "International telecommunication service traffic termination and exchange".

The conference broke new ground in bringing global public attention to the different perspectives that govern modern communications. Paying tribute to all delegations, Dr Touré said the work had been intense. "I appreciate the efforts put in by each and every delegation. The days have been long, and the nights have been even longer. But the dawn has broken on a new day — and a new set of ITRs. And I do not think that we allowed challenges and controversies to divert us from our common goal of bringing the benefits of communications to the 700 million people who still don't have mobile phone network coverage. And even more importantly to the 4.5 billion people who are not yet online."

In this context, the treaty calls upon Member States to "create an enabling environment for the implementation of regional telecommunication traffic exchange points, with a view to improving quality, increasing the connectivity and resilience of networks, fostering competition and reducing the costs of international telecommunication interconnections".

The Regulations will enter into force on 1 January 2015, and will be applied as of that date, consistent with the provisions of Article 54 of the ITU Constitution. ●

The critical role of ICT in development

A historic opening

The opening of WCIT-12 closely coincided with the 41st anniversary of the United Arab Emirates, marking its founding on 2 December 1971. "We celebrate this under the spirit of our father the late Sheikh Zayed bin Sultan Al Nahyan, the spirit that

has established our close ties and enabled unity and solidarity and has reflected peace and love in our relations with the world," said Mohamed Al-Ghanim, in his opening address as Chairman of the conference (see structure of the conference on pages 14–15). Mr Al-Ghanim expressed the hope that the same spirit would

From left to right: Brahima Sanou, Director of the ITU Telecommunication Development Bureau; Houlin Zhao, Deputy Secretary-General of ITU; Mohamed Nasser Al-Ghanim, Chairman of WCIT-12 and Director General of the Telecommunications Regulatory Authority of the United Arab Emirates; Dr Hamadoun I. Touré, Secretary-General of ITU; Malcolm Johnson, Director of the ITU Telecommunication Standardization Bureau; François Rancy, Director of the ITU Radiocommunication Bureau; and Doreen Bogdan-Martin, Chief of the ITU Strategic Planning and Membership Department

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"facilitate the work of WCIT-12 and contribute as much as possible to playing the role of consensus between the parties in resolving the important issues for the benefit of everyone".

Thanking the Telecommunications Regulatory Authority of the United Arab Emirates for the tremendous facilities and the efficient staff and support they provided, Dr Touré said: "Dubai is one of the most modern cities in the world; a city which has grown to become a wonderful symbol of Emirati culture and progress and a city which can rightly claim to be one of the greatest symbols of human achievement in the modern world."

United Nations (UN) Secretary-General Ban Ki-moon, in a video message to the conference, underlined the power of ICT that continues to transform our world. "The Arab Spring showed the power of ICT to help people voice their legitimate demands for human rights and greater accountability. As we strive to achieve the Millennium Development Goals and shape the post-2015 development agenda, you here at this conference are well placed to help further unleash the benefits of ICT while promoting an environment that drives innovation," said Mr Ban.

The UN Secretary-General went on to emphasize that the management of information and communication technology should be transparent, democratic and inclusive of all stakeholders, adding that he was pleased that steps had been taken "to open the process — including the vital voices of civil society and the private sector".

"The United Nations system stands behind the goal of an open Internet, and the right to communicate is central to the ITU's mission," said Mr Ban. "The Universal Declaration of Human Rights guarantees freedom of expression across all media and all frontiers."

Referring to the World Summit on the Information Society (WSIS) held in two phases, in Geneva in 2003 and in Tunis in 2005, which affirmed that the free flow of information and ideas is essential for peace, development and progress, Mr Ban stressed to delegates that these freedoms are not up for negotiation. "We must continue to work together and find consensus on how to most effectively keep cyberspace open, accessible, affordable and secure," adding that he trusted that governments, industry and civil society would rise to the occasion.

Structure of the conference

Chairmen and Vice-Chairmen of the conference

Chairman of the conference:
Mohamed Nasser Al-Ghanim (United Arab Emirates)

Vice-Chairmen of the conference
- Dr Amr Badawi (Egypt)
- Gift Buthelezi (South Africa)
- Edgardo Cabarios (Philippines)
- Manuel Costa Cabral (Portugal)
- Terry Kramer (United States of America)
- Nikolay A. Nikiforov (Russian Federation)

Committee 1 (Steering)

(Composed of the Chairman and Vice-Chairmen of the conference and of the Chairmen and Vice-Chairmen of the other committees)

Committee 2 (Credentials)
Chairman: Rabindra N. Jha (India)

Vice-Chairmen:
- Sameera Mohammad (Kuwait)
- Bruno Ramos (Brazil)

Committee 3 (Budget Control)
Chairman: Bruce A. Gracie (Canada)

Vice-Chairmen:
- Mohamed Ben Amor (Tunisia)
- Nurzat Boljobekova (Kyrgyzstan)

Committee 4 (Editorial)
Chairman: Marie-Thérèse Alajouanine (France)
Vice-Chairmen:
- Blanca Gonzalez (Spain)
- Vladimir M. Minkin (Russian Federation)
- Sami Salih (Sudan)
- Xuefei Wang (China)
- Chris Woolford (United Kingdom)

Committee 5 (Review)
Chairman: Joshua K. Peprah (Ghana)
Vice-Chairmen:
- Al-Mashakbeh Alansari (Jordan)
- Dr Bob Horton (Australia)
- Luis F. Lucatero (Mexico)
- Albert B. Nalbandian (Armenia)
- Frédéric Riehl (Switzerland)

Working Group 1 of Committee 5
Chairman: Bernadette Lewis (Trinidad and Tobago)
Vice-Chairmen:
- Fahed Al-Fallaj (Saudi Arabia)
- Seiichi Tsugawa (Japan)

Working Group 2 of Committee 5
Chairman: Fabio Bigi (Italy)
Vice-Chairman:
- Gertrude Aka (Côte d'Ivoire)

Dr Touré said that one of the most persistent myths concerned freedom of expression, where there had been suggestions that WCIT-12 might in some way act to restrict the open and free flow of information. "Everyone has the right to freedom of opinion and expression and this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers," said Dr Touré. "So here in Dubai we are not going to be challenging Article 19, or indeed any other article in the Universal Declaration of Human Rights."

Cooperation between ITU and the Internet Corporation for Assigned Names and Numbers

In the run-up to WCIT-12, ITU had made every effort to ensure that all stakeholders were heard in order to make the debate on the reform of the ITRs as inclusive as possible. As part of the multi-stakeholder approach, Dr Touré had invited the President and Chief Executive Officer of the Internet Corporation for Assigned Names and Numbers (ICANN), Fadi Chehadé, and Steve Crocker, ICANN's Board Chairman, to attend WCIT-12.

Thanking them for accepting the invitation, Dr Touré said: "This is a great opportunity for our two communities to reach out to one another," adding that he looked forward to the exciting opportunities that lay ahead and to all that can be achieved by ITU and ICANN working together in a positive spirit of collaboration. "The work of ICANN and ITU can be — and should be — fully complementary and we should note quite clearly that ITU has no wish or desire to play a role in critical Internet resources such as domain names and that ITU does not have any mandate to challenge ICANN's role and competency."

Appearing at what he described as a historic opening ceremony, ICANN President Fadi Chehadé, said: "I am here because I believe in the power of engagement and engagement starts with listening." Mr Chehadé went on to state that there was a new period of cooperation between ICANN and ITU, which had started at a meeting with Dr Touré at the Internet Governance Forum, held in Baku, Azerbaijan, in November 2012.

"I recognize ITU's deep impact on the development of the telecommunication industry, and the broadband infrastructure from which we all benefit every day, especially in the developing world — the world I come from," said Mr Chehadé. "ITU and ICANN have complementary roles and, moving forward, we shall cooperate in good spirit, while clearly respecting our distinct roles." He added: "When I started at ICANN, I said we could build organizations either as fortresses or as oases. I invite you to make our organizations an open oasis. Oases are open and vital. Let's remove the walls, open the windows, and build organizations that are welcoming and transparent."

Australia's pioneering role recognized

Dr Touré also welcomed Australia's Minister for Broadband, Communications and Digital Economy, Senator Stephen Conroy, who he singled out "not just because of Australia's tremendous achievements in broadband, or because of his great work on the Broadband Commission for Digital Development, but also because the conference that originally discussed the ITRs took place in Melbourne, Australia, in 1988, and set the stage for the information society". ●

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Innovations in the updated treaty

Tough topics that provoked considerable debate at WCIT-12 included network security, unsolicited bulk content such as spam e-mail, the definition of entities providing services under the terms of the treaty, the principle of non-discriminatory access of countries to each other's networks, and whether or not to mention freedom of expression in the treaty.

Conference affirms right to freedom of information online

Delegates overwhelmingly recognized the importance of Article 19 of the Universal Declaration of Human Rights affirming the right of all people to freedom of opinion and expression, including the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

There had been a proposal to include an explicit reference in Article 1 of the Regulations that would call on Member States to "acknowledge that the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one's choice".

The proposal sparked some vigorous debate, with delegates unanimously speaking out in favour of online freedom. However, the conference asserted that there was no need for additional text in the highly technical treaty, in view of the fact that the right to freedom of expression is already expressly protected by texts of treaties which take legal precedence over the ITRs, including Article 19 of the Universal Declaration of Human Rights and

Article 33 of the ITU Constitution. Instead, it was agreed to issue a press release as a way of sending a strong signal about the need to protect the right to freedom of expression. The press release, published on 4 December, was entitled: "World Conference on International Telecommunications affirms right to freedom of information online: Delegates emphasize pre-eminence of UN treaties on human rights".

Reference to right to access

In view of the importance of the matter, a group of countries further presented a document requesting to add the following clause to the Preamble of the ITRs: "While implementing these Regulations Member States shall take into account their international obligations in relation to universal human rights."

There was opposition to the request, on the grounds that the matter had already been settled at an earlier plenary, where it had been unanimously agreed that no language needed to be added to the ITRs regarding respect for human rights, because the respect of those rights was imposed by instruments of a higher level than the ITRs, in particular the ITU Constitution and the United Nations Declaration of Human Rights, as stated in the press release.

Some countries said they needed to consult with their capitals before they could take a position on the matter. Others considered that the proposed clause needed refining. The Chairman of the conference ruled for refinement, with the following result: "Member States affirm their commitment to implement these Regulations in a manner that respects and upholds their human rights obligations."

While a number of countries supported inclusion of this refined clause in the Preamble, another group of countries found the reference to human rights incomplete without an explicit mention of the right of access of Member States to international telecommunication services. These countries requested that the phrase "and recognize the right of access of all Member States to

international telecommunication services" should be added after the word "obligations". A long debate ensued.

Opposing this new request, one delegation said: "We have made a number of interventions and we have worked closely with colleagues to try to find a way to express the importance of human rights obligations, and we have made considerable progress, as is reflected in the Preamble text before us."

Another delegation stressed that the proposed text did not correspond to well-established human rights language: "We believe that this conference should not draft new human rights language, but reaffirm our existing commitments. Human rights are for individuals, not for States. We regret that some Member States are trying to politicize the very important issue of human rights therefore we cannot agree to the changes proposed."

Echoing a similar sentiment, another delegate said: "I need to reiterate that human rights are for individuals. The text respecting the rights of access of all Member States to telecommunication services appears to create new human rights language. I must say to the conference that this is not the forum to be creating new human rights language. And so while we recognize that all Member States shall respect their human rights obligations, with regret I cannot support this addition."

In the end, a decision was taken by vote — with 77 for, 33 against and 8 abstentions — to include in the Preamble an explicit reference to the right of access of Member States to international telecommunication services.

The full text of the Preamble says that: "While the sovereign right of each State to regulate its telecommunications is fully recognized, the provisions of the present International Telecommunication Regulations (hereafter referred to as "Regulations") complement the Constitution and the Convention of the International Telecommunication Union, with a view to attaining the purposes of the International Telecommunication Union in promoting the development of telecommunication services and their most efficient operation while harmonizing the development of facilities for worldwide telecommunications.

Member States affirm their commitment to implement these Regulations in a manner that respects and upholds their human rights obligations.

These Regulations recognize the right of access of Member States to international telecommunication services."

International mobile roaming

When the ITRs were agreed in 1988, mobile phones were a rarity and mobile roaming was not a concern for ITU members. But in a world with over 6.3 billion mobile cellular subscriptions, many ITU members today believe that mobile roaming charges are too high in relation to costs and that competition is not driving down prices fast enough.

Generally, delegations agreed that it was important to adopt provisions to ensure transparency of end-user prices for international mobile services, and that users receive full information promptly whenever they cross a border. However, delegations were divided regarding a second set of proposals to ensure that prices are based on costs for the service provider, or on prices charged in the user's home country, or on those charged to customers in the visited country.

After a lively debate, new provisions were adopted, which are intended to ensure transparency of end-user prices for international mobile services, and to allow users to receive full information promptly whenever they cross a border, as detailed below:

- "Member States shall foster measures to ensure that authorized operating agencies provide free-of-charge, transparent,

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up-to-date and accurate information to end users on international telecommunication services including international roaming prices and the associated relevant conditions in a timely manner.

- Member States shall foster measures to ensure that telecommunication services in international roaming of satisfactory quality are provided to visiting users.

- Member States should foster cooperation among authorized operating agencies in order to avoid and mitigate against inadvertent roaming charges in border zones.

- Member States shall endeavour to promote competition in the provision of international roaming services and are encouraged to develop policies that foster competitive roaming prices for the benefit of end users."

These provisions were initially considered under Article 6 on "Charging and accounting" before being moved to Article 4 on "International telecommunication services".

Charging and accounting

Discussions on Article 6 ranged from leaving the 1988 provisions unchanged, to adapting them to give greater weight to ITU–T Recommendations, to replacing them with general principles related to those agreed at the World Trade Organization, to deleting the existing provisions on the grounds that they are no longer appropriate in a world of liberalized telecommunications.

Under the traditional system when the original ITRs were negotiated in 1988, telephone traffic was exchanged between carriers in different countries, and a phone operator that sent more traffic than it received had to make "settlement payments" to the receiving company. These payments were calculated bilaterally with a formula called an "accounting rate," which is established according to principles set out in the ITRs, complemented by ITU–T Recommendations.

Advances in technology have led to more and more traffic bypassing the traditional system, for example, by taking the cheapest route for an international call — not necessarily the most direct one. 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.

Accounting rates are still used in some parts of the world, but they are no longer widely used, and most traffic today is billed on the basis of bilateral commercial agreements.

So in revising the treaty, some delegations argued for the deletion of text referring to accounting rates on the basis that the 1988 provisions reflected a communication market where most traffic was exchanged between monopoly carriers, whereas charging and accounting arrangements between operators have now become a commercial matter in many countries. In their view, the rates set out in the ITRs were adopted when the market comprised mostly State-owned telecommunication providers exchanging circuit-switched minutes. "We consider it inappropriate to mandate matters subject to commercial arrangements in a binding multilateral treaty," they argued.

Speaking as Vice-Chairman of Committee 5, Australia's Bob Horton described the current situation as a dual highway. "A highway where in some cases we have heard that there are many countries that need to negotiate with each other using the charging and accounting regime, which has been in place for 24 years," said Mr Horton. "And there is still a definite need for that, and also a legitimate requirement for it within the Constitution and the Convention. On the other hand, we have seen an enormous growth of commercial arrangements and that is the second lane of the highway. If we recognize that it is a dual highway then we can cross over at certain points when we're ready."

A decision was then taken to set up an ad hoc group, chaired by Australia, to examine the positions that had been presented. The ad hoc group was open to all those who felt strongly about the issue, to make their views known. Some countries, announcing their participation in the group, stressed that "rather than prescriptive regulations, we need a regulatory environment that promotes competition, development, entrepreneurship and innovation, since this would benefit consumers worldwide." Others reiterated that Article 6 dealt with the important subject of accounting and settlement principles, and that for settlement of accounts it is still basically being followed. "So though it is not used much nowadays, we would suggest keeping it in some part of the ITRs."

Accounting rates are still used in some parts of the world, but they are no longer widely used, and most traffic today is billed on the basis of bilateral commercial agreements. The current situation has been described as a dual highway. If we recognize that it is a dual highway then we can cross over at certain points when we're ready

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At the end of one the most contentious debates of the conference, delegations approved new provisions that cater for the different situations around the world, with a general provision on the use of both arrangements, and specific provisions on accounting rates:

- "Subject to applicable national law, the terms and conditions for international telecommunication service arrangements may be established through commercial agreements or through accounting rate principles established pursuant to national regulation" (paragraph 6.1 of Article 6).
- "For each applicable service in a given relation, authorized operating agencies shall, by mutual agreement, establish and revise accounting rates to be applied between them, in accordance with the provisions of Appendix 1 and taking into account the relevant ITU–T Recommendations" (paragraph 6.2.1 of Article 6).
- "Unless otherwise agreed, parties engaged in the provision of international telecommunication services shall follow the relevant provisions as set out in Appendices 1 and 2" (paragraph 6.2.2 of Article 6).
- "In the absence of special arrangements concluded between authorized operating agencies, the monetary unit to be used in the composition of accounting rates for international telecommunication services and in the establishment of international accounts shall be:
  - either the monetary unit of the International Monetary Fund (IMF), currently the Special Drawing Right (SDR), as defined by that organization;
  - or freely convertible currencies or other monetary unit agreed between the authorized operating agencies" (paragraph 6.2.3 of Article 6).
- "The charges levied on customers for a particular communication should in principle be the same in a given relation, regardless of the international route used for that communication. In establishing these charges, Member States should try to avoid dissymmetry between the charges applicable in each direction of the same relation" (paragraph 6.2.4 of Article 6).

Recognized operating agencies and operating agencies

To whom the Regulations being renegotiated would apply was a fundamental question for WCIT-12 and there was a major debate on whether the ITRs should apply to recognized operating agencies or to operating agencies.

Operating agencies are defined in provision No. 1007 of the ITU Constitution as: "Any individual, company, corporation or governmental agency which operates a telecommunication installation intended for an international telecommunication service or capable of causing harmful interference with such a service."

Recognized operating agencies are defined in provision No. 1008 of the ITU Constitution as: "Any operating agency, as defined above, which operates a public correspondence or broadcasting service and upon which the obligations provided for in Article 6 of this Constitution are imposed by the Member State in whose territory the head office of the agency is situated, or by the Member State which has authorized this operating agency to establish and operate a telecommunication service on its territory."

On one side were Member States who preferred to restrict the scope of the ITRs to recognized operating agencies — the major telecommunication operators, which provide a public service. These countries argued that recognized operating agencies are the traditional target for the Regulations and that it would not be appropriate to expand the scope of the ITRs — and in particular they should not apply to private networks.

On the other side were Member States who advocated application of the ITRs to operating agencies, which would bring in public service providers without licensing obligations and would thus extend the scope of the Regulations. These countries argued that the ITRs had to be adapted to the current regulatory reality.

The question of operating agencies versus recognized operating agencies was highlighted at the start of the conference, with some countries proposing that the definitions for both terms, as well as the term "telecommunications", be agreed to before any substantive work at the conference began. The response to this request was the setting up of an ad hoc group of the Plenary, under the leadership of the conference Chairman.

In an attempt to find a compromise, the Chairman had proposed in his ad hoc group that perhaps the way forward could be to use the concept of authorized operating agencies as referred to in provision No. 38 of the ITU Constitution. This, he explained, would have the advantage of not creating a discrepancy between the Constitution and the ITRs.

Provision No. 38 in the ITU Constitution states: "The Member States are also bound to take the necessary steps to impose the observance of the provisions of this Constitution, the Convention and the Administrative Regulations upon operating agencies authorized by them to establish and operate telecommunications and which engage in international services or which operate stations capable of causing harmful interference to the radio services of other countries." But this clause, it was argued, does not give any clear indication on how an exclusion process would work nor to whom it would apply.

In the end, the conference adopted the following provisions:

- These Regulations also contain provisions applicable to those operating agencies, authorized or recognized by a Member State, to establish, operate and engage in international telecommunication services to the public, hereinafter referred as "authorized operating agencies" (paragraph 1.1.a *bis* of Article 1).

- Within the framework of these Regulations, the provision and operation of international telecommunication services in each relation is pursuant to mutual agreement between authorized operating agencies (paragraph 1.5 of Article 1).

- In implementing the principles of these Regulations, authorized operating agencies should comply with, to the greatest extent practicable, the relevant ITU–T Recommendations (paragraph 1.6 of Article 1).

- These Regulations recognize the right of any Member State, subject to national law and should it decide to do so, to require that authorized operating agencies which operate in its territory and provide an international telecommunication service to the public be authorized by that Member State (paragraph 1.7.a of Article 1).

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Keeping content-related aspects of telecommunications out of the treaty

Content, as such, has no place in the Regulations. Delegations were in agreement about this, with a number of them wanting to see a clear and explicit statement that would expressly exclude content from the scope of the Regulations. Several attempts were made to find suitable wording.

Under Article 1 on the "Purpose and scope of the Regulations", the Chairman of the conference proposed including new text that would make it clear that the Regulations do not address — nor can they be interpreted as addressing — content. He suggested adding the phrase "to the exclusion of their content" as shown in bold in the following sentence: "These Regulations establish general principles which relate to the provision and operation of international telecommunication services offered to the public as well as to the underlying international telecommunication transport means used to provide such services, **to the exclusion of their content**."

A group of countries expressed the opinion that this addition was not clear for two reasons. First, it was not clear whether the exclusion was intended to relate to services or transport. Second,

the word "content" has a broad meaning, which also covers technical content because a telecommunication system that does not transport information does not transmit anything. The group of countries therefore proposed, instead, a clear and unambiguous sentence stating that "These Regulations do not address the content-related aspects of telecommunications."

There were no objections to the proposal, which was then approved as shown in bold in the following provision: "These Regulations establish general principles which relate to the provision and operation of international telecommunication services offered to the public as well as to the underlying international telecommunication transport means used to provide such services. **These Regulations do not address the content-related aspects of telecommunications**."

Security and robustness of networks

There was a divergence of views on whether security, robustness or resilience were appropriate topics for the treaty. Despite general consensus that improving security in the sphere of ICT is

an important matter today, some countries did not want the word "security" included in the treaty, believing that the ITRs are not an appropriate place for addressing security matters, so they would not support a vague provision that would have significant implications but make few practical improvements to security.

New Article 5A on security and robustness of networks was approved after a lengthy discussion. It says that: "Member States shall individually and collectively endeavour to ensure the security and robustness of international telecommunication networks in order to achieve effective use thereof and avoidance of technical harm thereto, as well as the harmonious development of international telecommunication services offered to the public."

Unsolicited bulk electronic communications

With regard to unsolicited bulk electronic communications, there was a lively debate over whether prohibiting spam would raise issues over what constituted prohibited content. Some countries regretted that the word "spam" had been dropped from the initial proposal but others argued that spam is a form of content and that regulating it would inevitably open the door to regulation of other forms of content, including political and cultural speech. Others wanted it stated clearly that the ITRs should not address the content-related aspects of telecommunications as stated above.

In the end, the following provision was adopted: "Member States should endeavour to take necessary measures to prevent the propagation of unsolicited bulk electronic communications and minimize its impact on international telecommunication services. Member States are encouraged to cooperate in that sense."

Energy efficiency

A proposal was put forward that requested Member States to cooperate to encourage operating agencies and industry to adopt energy-efficiency international standards and best practices, including disclosure and labelling schemes, so as to reduce energy consumption of communication facilities and installations. A number of developed countries took the floor to indicate that, while the issue was relevant, there were other ITU Resolutions that covered it and they suggested that the proposal should not be incorporated into the ITRs.

A number of other countries from the developing and emerging world expressed the sentiment that it was important to have treaty-level text, not just recommendations or resolutions.

The Chairman of the conference noted all the comments from the floor and referred the matter to the ad hoc group. After several meetings, the group delivered a consolidated proposal that was then approved by the conference, recognizing that operators should adopt energy-efficient standards and e-waste policies.

Accessibility for persons with disabilities

Proponents of a new article on accessibility had emphasized that it would complement previous ITU Resolutions, providing general principles that could then be applied across the telecommunication sector.

But some countries argued that, although the issue was relevant, it was already covered by other ITU Resolutions, and suggested not incorporating the proposal into the ITRs.

Noting all comments from the floor, the Chairman of the conference decided that the matter would be debated in an ad hoc group. As mandated, after several meetings, the group delivered a consolidated provision on accessibility that led to the adoption of a new Article 8B which reads: "Member States should promote access for persons with disabilities to international telecommunication services, taking into account the relevant ITU–T Recommendations."

Dr Touré in his closing remarks said: "I am very encouraged by the new article on accessibility. There are at least 650 million people worldwide suffering from some sort of disability, and each and every one of them has just as much right as you and I to access the full benefits of ICT." ●

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Five new resolutions approved: non-treaty text

Special measures for landlocked developing countries and small-island developing States for access to international optical fibre networks

A new resolution on "Special measures for landlocked developing countries and small-island developing States for access to international optical fibre networks" should help these countries achieve the United Nations Millennium Development Goals, as well as the targets of the World Summit on the Information Society. In many countries, the deployment of a network infrastructure that bolsters broadband uptake has become a priority on their development agendas.

The planning and laying of international optical fibre calls for close cooperation between landlocked developing countries and transit countries, and capital investments are required.

Noting this, the new resolution instructs the Director of the Telecommunication Development Bureau to study the special situation of telecommunication/ICT services in landlocked developing countries and small-island developing States, taking into account the importance of access to international fibre-optic networks at reasonable costs. He is to report to the ITU Council on measures taken to provide this assistance. These countries should also be assisted to develop their plans, along with practical guidelines and criteria to govern and promote sustainable regional, subregional, multilateral and bilateral projects.

The Secretary-General is to bring the resolution to the attention of the Secretary-General of the United Nations with a view to placing this on the agenda of the United Nations High Representative for least-developed countries, landlocked developing countries and small-island developing States.

"The special measures adopted to assist landlocked developing countries and small-island developing States to gain access to international optical fibre networks will be of great help to these countries in strengthening their integrated development and their capacity to build their own information society," said the Chairman of the conference.

Globally harmonized national number for access to emergency services

A new resolution on "Globally harmonized national number for access to emergency services" underlines the importance of travellers being aware of a single well-known number to access local emergency services. The resolution invites Member States to introduce, in addition to their existing national emergency numbers, a globally harmonized national number for access to emergency services, taking into consideration the relevant ITU–T Recommendations. Also the resolution instructs the Director of the Telecommunication Standardization Bureau to take the necessary action in order that Study Group 2 of the ITU Telecommunication Standardization Sector (ITU–T) can continue exploring the option of introducing a single globally harmonized national number for access to emergency services in the future.

Fostering an enabling environment for the greater growth of the Internet

The conference also approved a resolution that recognizes the Internet as a central element of the infrastructure of the information society, noting that the Internet has evolved from a research and academic facility into a global facility available to the public.

Entitled "To foster an enabling environment for the greater growth of the Internet," the resolution also recognizes the importance of broadband capacity to facilitate the delivery of a broader range of services and applications, promote investment and provide Internet access at affordable prices to both existing and new users.

It was agreed that all stakeholder groups make a valuable contribution to the evolution, functioning and development of the Internet, and they should do so in their respective roles, as recognized in paragraph 35 of the Tunis Agenda for the Information Society.

The resolution says that, as stated in the World Summit on the Information Society (WSIS) outcomes, "all governments should have an equal role and responsibility for international Internet governance and for ensuring the stability, security and continuity of the existing Internet and its future development and of the future Internet." The need for the development of public policy by governments in consultation with all stakeholders is also recognized.

Under the terms of the resolution, the Secretary-General is to continue taking the necessary steps for ITU to play an active and constructive role in the development of broadband and the multistakeholder model of the Internet as expressed in the Tunis Agenda (paragraph 35). He is also to support the participation of Member States and all other stakeholders (as applicable) in ITU activities.

Member States are invited "to elaborate on their respective positions on international Internet-related technical, development and public-policy issues within the mandate of ITU at various ITU forums including, *inter alia,* the World Telecommunication/ICT Policy Forum, the Broadband Commission for Digital Development and ITU study groups". They are also to engage with all their stakeholders in this regard.

Periodic review of the International Telecommunication Regulations

A new resolution recognizes the ITRs as one of the pillars supporting ITU's mission, and that, while the ITRs are high-level guiding principles that should not require frequent amendment, in the fast-moving sector they may need to be periodically reviewed.

The Plenipotentiary Conference of 2014 (PP-14) is to consider whether to convene a World Conference on International Telecommunications, for example every 8 years, to revise the ITRs, taking into account the financial implications to ITU.

International telecommunication service traffic termination and exchange

Approval was given by the conference to a new resolution that recognizes that the transition from dedicated phone and data networks to converged Internet Protocol (IP)-based networks raises regulatory, technical and economic issues, which need to be taken into account.

Entitled "International telecommunication service traffic termination and exchange," the resolution invites concerned Member States to collaborate so that each party in a negotiation or agreement related to or arising out of international connectivity matters can seek the support of relevant authorities of the other party's State in alternative dispute resolution.

Member States are also invited to collaborate so that their regulatory frameworks promote the establishment of commercial agreements between authorized operating agencies and the providers of international services in alignment with principles of fair competition and innovation.

The resolution then goes on to instruct the Director of the Telecommunication Standardization Bureau to take necessary action in order that ITU–T Study Group 3 can study recent developments and practices with regard to the termination and exchange of international telecommunication traffic under commercial agreements. The aim would be to develop a recommendation, if appropriate, and guidelines for concerned Member States, for the use of providers of international telecommunication services in regard to issues such as the conditions for the establishment, sending and payment of invoices, dispute resolution, fraud prevention and mitigation, and the conditions for charges for international telecommunication service traffic termination and exchange.

Suppression of resolutions, recommendations and opinions

A decision was taken to suppress the following non-treaty texts from the 1988 ITRs:

- Resolution 1: Dissemination of Information Concerning International Telecommunication Services Available to the Public
- Resolution 2: Cooperation of the Members of the Union in Implementing the International Telecommunication Regulations
- Resolution 3: Apportionment of Revenues in Providing International Telecommunication Services
- Resolution 5: CCITT and World-Wide Telecommunications Standardization
- Resolution 7: Dissemination of Operational and Service Information Through the General Secretariat
- Resolution 8: Instructions for International Telecommunication Services
- Recommendation 1: Application to the Radio Regulations of the Provisions of the International Telecommunication Regulations
- Recommendation 2: Changes to Definitions Which also Appear in Annex 2 to the Nairobi Convention
- Recommendation 3: Expeditious Exchange of Accounts and Settlement Statements
- Opinion 1: Special Telecommunication Arrangements. ●

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Member States react to new treaty

The World Conference on International Telecommunications was about trying to reach consensus in a rapidly changing technological and economic climate, where there has been convergence between telecommunications and the Internet.

Statements were made by several countries following the approval of the updated treaty, as well as during the signing and closing ceremonies on 14 December. Here we highlight some of the reactions to the new treaty in the final hours of the conference.
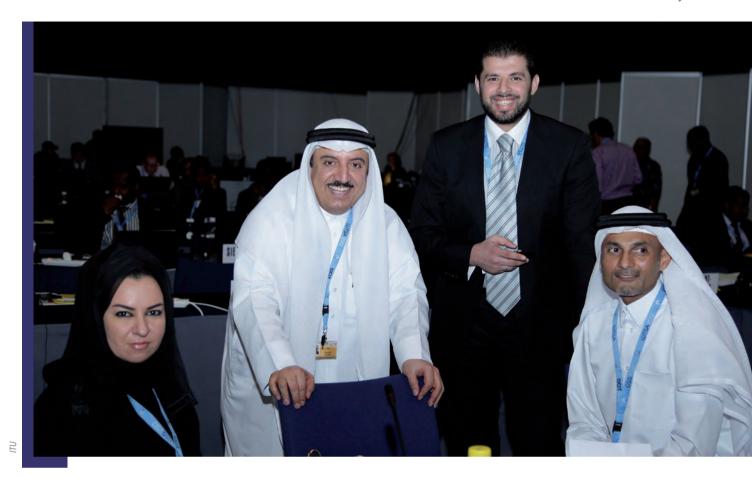
Countries supporting the new Regulations

On signing the treaty, Brazil stated that "In all international forums, we defend the current model of governance of the Internet being improved so that it can really be based on the principles of multisectoralism, multilateralism, democracy and full transparency", adding that "We do not believe that this treaty is a threat to anyone". Brazil regretted that the conference had resorted to a vote, betraying the hope that all countries would reach consensus on modifying the Regulations to make the world more connected and the telecommunication network more relevant than ever.

China called the treaty a balanced document, and said that differences of opinion were understandable among countries at different levels of development. China signed the treaty, stressing that "The conference has expressed an important message, which is that ITU Member States have a common goal."

According to Botswana, "The provision of right of access to international telecommunications greatly guarantees our future and the future of our children or grandchildren." The delegate of

Botswana signed the treaty, observing that "Contrary to media speculation, I have been pleasantly surprised that the conference has not sought to become an impediment to the growth of the Internet and associated services".

Azerbaijan saw the Regulations as providing "new opportunities to expand cooperation between Member States". Egypt believes "the text which has been adopted will contribute to the development of the telecommunication sector, especially in the developing countries". Uruguay, as a supporter of a free and open Internet, confirmed that "the ITRs approved in the treaty do not include provisions on the Internet, and content has been expressly excluded from the scope of the Regulations".

The Asia-Pacific Telecommunity said that ITU is a family, and it is not unusual for families to quarrel, but was confident that members would join together to move ITU forward as a leading international organization in ICT in the world.

South Africa observed that "nobody got everything that they wanted. This is because it is a negotiated document and agreement. But I would like to urge every one of us and all of us to

continue working together as countries, in consultation with all the stakeholders, to make greater efforts to understand each other. In particular, it is important to continue to address the challenges facing developing countries in the telecommunication sector and ICT sector. If we do this, we will ensure that ICT will be a force for social and economic development. We committed ourselves to the outcome of the World Summit on the Information Society and the Millennium Development Goals. We cannot leave 4.5 billion people unconnected, excluded from the benefits of the Internet."

Alluding to the heated discussions during the conference, the Republic of Korea expressed satisfaction with many of the outcomes, except in regard to the Internet. In this context, the delegation stated that "The Republic of Korea strongly believes that the discussions regarding the Internet should be open to all of the international community — as the Internet is open to all nations and all individuals. We believe that Internet issues can be and shall be discussed anywhere. The international community can gather, not only at ITU, but also at OECD (The Organisation for

Economic Co-operation and Development), and the Cyberspace Conference (being organized in 2013), and at ICANN". The Republic of Korea considered that the international community should have an open attitude to the Internet, and that topics such as cybersecurity and Internet-related matters should be properly addressed in the relevant forums.

Saudi Arabia emphasized that "the new Regulations contain provisions that would guarantee States and individuals alike freedom of access to all international communications", making it "crystal clear that ITU has an important role to play in this issue". Saudi Arabia stressed that the new Regulations do not deal with Internet governance, even though the situation regarding Internet governance is unsatisfactory, warning that "there are no agreed international policies that would ensure there is no unilateral control over the Internet". This led Saudi Arabia to ask "How do we expect Member States to invest billions and billions of dollars in building their networks, and in changing their transactions into electronic operations, when they might find themselves overnight unable to use them because there are no international regulations to protect these investments and networks?"

Lebanon "believes in keeping the hands of States, governments, individuals, and organizations off content, and in assuring our citizens and businesses of the privacy and the confidentiality of their data. We reaffirm our support to the multistakeholder governance model of the Internet — and definitely with multinational cooperation". Lebanon regretted that, despite many compromises, some delegations ended up not signing the treaty.

Singapore captured the feeling of many signatories, saying "Singapore is proud to be part of this historic treaty, as it seeks to increase greater telecommunication access for all peoples of the world. We look forward to working closely with all members of the ITU family".

Some countries still need to consider or consult

Japan felt that the bridge between the diverse views had not been built, and the chart of the future ITRs had not yet matured. In the light of that, Japan's decision on whether or not to sign the Final Acts was still to be taken.

Sweden had serious concerns with respect to some of the provisions of the ITRs, notably those relating to content and security. Sweden was also uncomfortable with the new resolution on fostering an enabling environment for the greater growth of the Internet, saying that the text did not adequately recognize the existing multistakeholder arrangements for Internet governance and the Internet market. Further consultations with its capital were needed.

New Zealand also reserved its right to consult its capital, expressing regret that the revised ITRs contained text relating to the Internet, spam and security issues, all of which were outside the scope of the Regulations and should remain so.

Poland had held public consultations on the proposals for revision of the ITRs and, insofar as the delegation had a mandate from not only the Polish Government, but also Polish citizens, it was unable to accept the current text and reserved the right to consult the Polish public.

The Netherlands had also prepared for the conference by consulting all stakeholders, with the aim of achieving a satisfactory treaty text. However, it now shared the concerns voiced with respect to certain provisions of the treaty and the resolution on the Internet. It therefore intended to present the treaty to the country's ministers and parliament for an assessment of its acceptability.

Kenya's objectives set through multistakeholder meetings at the domestic level had unfortunately remained unmet, and it therefore reserved its right to conduct further consultations at that level.

Dr Hamadoun I. Touré, Secretary-General of ITU, awarding ITU's Gold Medal, the organization's highest honour, to Mohamed Nasser Al-Ghanim, Chairman of WCIT-12 and Director General of the Telecommunications Regulatory Authority of the United Arab Emirates

Costa Rica, Chile, the Philippines, Latvia, Lithuania, Serbia, Switzerland, Italy, Norway and India all also expressed the need to carry out further consultations. For example, Costa Rica stated that it would maintain consultations, since it has hearings in its democratic system, and has concerns on some of the provisions included, which it believes could expand the scope of the ITRs.

Other countries opt out

Commitment to a multistakeholder model of Internet governance, along with fears that the treaty text and the resolution on the Internet jeopardized that model, was the main reason why the United States, the United Kingdom, Canada and Australia could not sign the treaty.

The United States said that "The Internet has given the world unimaginable economic and social benefit during these past 24 years, all without UN regulation. We candidly cannot support an ITU treaty that is inconsistent with the multistakeholder model of Internet governance. As ITU has stated, this conference was never meant to focus on Internet issues. However, today we

are in a situation where we still have text and resolutions that cover issues on spam and also provisions on Internet governance". The United States "continues to believe that Internet policy must be multistakeholder driven. Internet policy should not be determined by Member States, but by citizens, communities, and broader society, and such consultation from the private sector and civil society is paramount. This has not happened here. We live in an interconnected world, which is becoming more interconnected with every passing day. We came to this conference with a hope for finding ways to advance our cooperation in the telecommunications arena, and continue to believe that is an important goal".

Australia said it was not in a position to sign the Final Acts with the ITRs as they currently stand, explaining that "A key point for us is that the Internet should not be included in the ITRs, and should not be included in the associated resolutions. This is a point on which we cannot compromise. Australia remains committed to the multistakeholder model of Internet governance, which we believe is the best way to sustain the Internet's growth and innovation".

Looking ahead, however, even the countries that did not sign the treaty were ready to continue working constructively with ITU. The United States remained committed to finding other ways of advancing shared goals. The United Kingdom would continue to work in a positive spirit with all Member States.

Canada believed that the scope of the ITRs should remain unchanged, and that the text on operating agencies, security, spam and Internet governance certainly extended it. Canada too "is committed to continuing to work with all States and all stakeholders, in all settings, to advance work in these important areas. We will work with ITU in its area of mandate. But we are also committed to working within the existing multistakeholder bodies, which are flexible, adaptable and have a proven record of success, to continue to further improve their inclusivity".

Australia emphasized that it was not stepping back from its commitment to, and engagement with, ITU. "The ITU does great work in connecting the world and we greatly value ITU's capacity-building work in the Asia-Pacific region and the rest of the world. We are proud to be part of that work."

Exceptional Chairman congratulated

Delegations congratulated the Chairman of the conference, Mr Mohamed Nasser Al-Ghanim, on his competence, wisdom, patience, calm and good humour. They recognized the skill that he had shown in bringing people together, and the efforts he had made to reach consensus on many of the matters debated over the course of the two-week conference. Delegations were unanimous in their praise of the Chairman's able leadership.

In terms of overcoming the challenges and controversies, Dr Touré paid tribute to the exceptional chairmanship of Mr Al-Ghanim, commemorating his success in managing the often difficult discussions by awarding him ITU's Gold Medal, the organization's highest honour.

"Mr Al-Ghanim has played a vital role in the work of the conference," said Dr Touré. "He has managed to keep his calm and nerve throughout the long days and nights we have spent together, and he has epitomized the key ITU value of global consensus."

Mr Al-Ghanim characterized the importance of the revised International Telecommunication Regulations as lying in the common desire to bring equitable access to ICT to drive global development.

"We came to this conference with a wide divergence of views," said Mr Al-Ghanim. "Different countries contend with vastly different market environments, but all understand how critical ICT will be to their ongoing social and economic development. While we did not manage to get universal consensus, I believe we nonetheless achieved a huge milestone in getting such broad agreement, and I am confident that these new ITRs will pave the way to a better, more connected world, and a more equitable environment for all." ●