Introduction

My name is Sally Shipman Wentworth and I am Senior Manager of Public Policy for the Internet Society. The Internet Society is a nonprofit organization dedicated to ensuring the open development, evolution, and use of the Internet for the benefit of all people throughout the world. On behalf of the Internet Society, which is made up of more than 65,000 members and 91 Chapters worldwide, I would like to sincerely thank the leaders of the subcommittees gathered here for the opportunity to testify on the current state of global Internet policy and the future of Internet freedom.

Two months ago, in December 2012, the International Telecommunication Union (ITU) convened the World Conference on International Telecommunications (WCIT) in Dubai to review and revise a 1988 treaty called the International Telecommunication Regulations (ITRs). In the months prior to the WCIT, members of the Internet community, advocates, and policymakers began to express concern that some ITU Member States could seek to leverage these telecom treaty negotiations to establish greater governmental control over the Internet. In May 2012, I had the honor of testifying before the Subcommittee on Communications and Technology about WCIT. At the time, we expressed concern that some government proposals would threaten the viability of the successful, existing global multistakeholder model for the Internet, including Internet standards-setting and policy development, and by extension would pose a direct threat to the innovative, collaborative and open nature of the Internet itself.

While the final treaty text was disappointing, it was not as bad as it could have been, thanks in large part to the work of national delegations from the United States, Canada, Australia, Philippines, Kenya and many European Union Member States. However it does contain language that could have a lasting impact on the Internet's infrastructure and operations, and on the content that is so fundamental to its value.

I participated in an Internet Society delegation that attended the Dubai meeting as a Sector Member (i.e., nongovernmental, nonvoting member) of the ITU. As an ITU Sector Member, the Internet Society was able to monitor, but not directly participate in the treaty process, which under ITU rules is the sole province of Member States. As we noted to this committee last May, intergovernmental treaty making processes are not the best way address critical Internet policy issues because they do not allow for full multistakeholder engagement in the decision making. It is important to point out that the ITU, in response to unprecedented global public interest in the WCIT, took a number of steps to make the process in Dubai more transparent – Sector Members like ISOC participated in preparatory meetings prior to the WCIT, certain sessions at the Conference were webcast and daily updates from Dubai were posted to the ITU website. It will be important for the ITU to build on these steps in the future and to make its processes more transparent and more meaningfully inclusive.

In the aftermath of WCIT, considerable uncertainty remains as to whether and how the new International Telecommunication Regulations will be implemented and to what extent the lack of consensus will negatively impact global communications networks going forward. We suspect that it will. What *is* certain is that WCIT is one piece of a much longer narrative. At the heart of this narrative is a very basic question over the role of governments in a technology space that is fundamentally borderless. It is a question of how to implement policy – either at the national or international level – in a way that is consistent with a need for global interoperability and accessibility, consensus among all stakeholders, economic growth and on-going innovation. These questions have been around for many years and unsurprisingly, WCIT did not move us toward consensus.

In the end, the results from WCIT are concerning. The lack of consensus among nations and the persistent aims by some governments to establish Internet policy in a closed, intergovernmental context sets the Internet policy dialogue on uncertain footing. It remains to be seen to what extent the highly politicized environment at the WCIT will permeate future Internet governance discussions.

From our perspective, while the WCIT was difficult and presents a host of challenges, it has not shaken our basic confidence that the Internet is fundamentally good for the world and that the multistakeholder model of policy development is still the most effective way to support Internet growth and innovation. We believe that it is our collective responsibility to learn from our experiences in Dubai and work together toward a constructive way forward.

In that light, the Internet Society appreciates the opportunity of this Joint Committee Hearing to examine the potential impact of the WCIT, and seek a path forward that preserves the fundamental values of the open Internet.

Dubai Aftermath: Lack of Consensus Creates New Uncertainty

Although some of the most troubling proposals offered in advance of the WCIT meeting did not make it into the renegotiated treaty, the final document was still controversial enough that 55 nations declined to sign it. The chief question going into WCIT was whether the ITRs would be expanded to apply to international Internet traffic. And while WCIT, as an intergovernmental meeting, could not fully answer that question, certain aspects of the final treaty do anticipate a greater role for the governments and/or the ITU in the Internet. How Member States choose to define that role over the course of the coming years – and to what extent all stakeholders are included in the conversation – will determine how dramatically the ITRs impact the landscape of global Internet policy. If anything, WCIT once again demonstrated the perils of just one stakeholder group – governments – making decisions for all others.

Before highlighting the more concerning aspects of the revised ITRs, it is important to acknowledge the hard work done by so many national delegations to push back on the most prescriptive proposals considered at WCIT. As mentioned above, the U.S. delegation along with delegates from Canada, Sweden, Australia, UK, the Netherlands, Kenya, the Philippines, and many, many others worked tirelessly to oppose the most interventionist proposals offered at the conference. Even in many national delegations that ultimately supported the treaty, Internet advocates toiled against the most prescriptive proposals. Without the engagement of those leaders, including many in Latin America and the Caribbean and also in Africa, the treaty could have been much worse. Importantly, many of these delegations welcomed Internet experts as advisors onto their delegations, a development that we believe was critical to moderating the final treaty text.

As a result of that collective hard work, the final treaty does not directly impose new routing regulations, IP addressing rules, or costly interconnection requirements. It does not endorse a "sender-pays" regime that could have dramatically raised connection costs and barriers to entry, especially for users in the emerging economies. The new treaty also provides for greater transparency regarding mobile roaming rates. At face value, the treaty does not "break" the Internet, and for that, the hundreds of delegates who advocated tirelessly for the Internet's core values should be very proud. At the same time, the Final Acts are ambiguous as to scope and to whom the Regulations will apply so this is an area to watch closely.

Unfortunately, the WCIT did adopt a controversial new Internet resolution that, in our opinion, suggests a much more prominent role for governments and the ITU on Internet matters, with only a passing reference to the value and promise of multistakeholder policy development. This Resolution selectively quotes from a carefully crafted compromise at the 2005 World Summit on the Information Society which recognized that "the existing arrangements for Internet governance have worked effectively to make the Internet the highly robust, dynamic and geographically diverse medium that it is today, with the private sector taking the lead in day-to-day operations, and with innovation and value creation at the edges."[1] The WCIT Resolution does not reflect the essence of the 2005 WSIS outcome and, in citing the WSIS texts selectively, shifts the emphasis from community and consensus to centralization through government action.

The Internet resolution focuses on the very heart of the longstanding debate between those who envision a more direct role for intergovernmental organizations in the management of Internet communication, and those who support the existing, open, multistakeholder model of Internet governance. That model, which is unique to the Internet, engages technologists, the private sector and civil society in a bottom-up, consensus driven approach to standards setting, Internet development, and management. This approach has proven to be nimble and effective in ensuring the stability, security, and availability of the global infrastructure, while still giving sovereign nations the flexibility to develop Internet policies within their borders. And while UN members formally endorsed the multistakeholder model in 2005, a strong undercurrent of support for greater governmental involvement has remained among some countries. In fact, these countries see the UN as the natural home for intergovernmental cooperation and believe that the ITU, as the UN specialized agency for telecommunication, is the "logical organization" to deal with Internet issues. At WCIT, that view held greater sway for some countries than ever before.

In addition to the broad Internet resolution, the treaty also contains new language relating to network security and unsolicited bulk electronic communications ("spam"). While the language for both of those provisions is quite general, there is concern that government implementation of these provisions will ultimately place restrictions or limitations on the Internet and the content it carries.

Looking ahead, the question now for all of us is how to translate the WCIT experience into tangible actions and more widespread buy-in for the Internet's multistakeholder model of Internet policy development. We need to take the lessons learned seriously or we will continue to be faced with the kinds of divisions that resurfaced at the WCIT.

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[1] 2005, United Nations World Summit on the Information Society; "Tunis Agenda for the Information Society", paragraph 55.

Lessons Learned

While WCIT outcomes remain ambiguous, the Conference did crystallize deep tensions that may be poised to define Internet policymaking at the global level. The tensions that led to the WCIT outcome are not new - many of the same issues that colored the debate in Dubai also factored heavily at the World Summit on the Information Society (WSIS) in 2003 and 2005 and at subsequent international meetings. How we collectively respond to WCIT, will determine if those divisions deepen rather than diminish.

In some ways, the debate at WCIT helped to clarify the risk: that the global Internet may give way to a set of national Internets, each with its own rules and gatekeepers, and with higher costs for all. If that happens, the platform will become more fragmented and fewer people will benefit from it. From our perspective as an organization that believes that the Internet becomes more valuable and powerful as it becomes more globally diverse, this is an outcome that must be averted.

WCIT provided a great deal of insight into developing country priorities with respect to the Internet. They have important questions and, in many cases, legitimate concerns. They have concerns about the high cost of connectivity, privacy, and consumer protection. They have a desire for more information in the areas of IP addressing and numbering. They have a desire to drive more local traffic and content. These countries aim to make smart infrastructure investments, to get answers to weighty questions surrounding censorship and human rights, and to have their experts represented in technical standards setting bodies and international policy processes.

If we do not increase our efforts to address these issues, there is a risk that many countries will turn to sources that do not support the Internet's multistakeholder model. In discussions with our members and partners from across the global Internet community, including individual users, industry, engineers, and civil society groups and government representatives, the consensus is clearly in favor of more problem solving and more capacity building. In short, more engagement, not less, is the answer.

This emphasis on engagement becomes more important as we look at the timeline for upcoming international meetings thru 2015 where we could see continued efforts to undermine the multistakeholder approach. In 2013, the ITU will host the World Telecommunication/ICT Policy Forum followed by the ITU's Plenipotentiary Conference in Busan, South Korea in October 2014, which will set the scope and strategic vision for the ITU and another international treaty. We fully expect that the role of the ITU in Internet policy issues will figure prominently in the political debate at the Plenipotentiary Conference. Between now and then, a series of important regional and global ITU development meetings will set the regional framework for the negotiations in Busan. On a positive note, meetings of the Internet Governance Forum (IGF) in 2013 and 2014 offer a non-negotiating forum in which more productive dialogue can take place and, as I outline below, present an opportunity to tangibly support the multistakeholder approach.

At the Internet Society, we recognize that certain geopolitical and substantive rifts among countries are not likely to be solved before 2014. However, we can work with those countries that want to engage to take those core elements of an open Internet model and apply that approach to address the problems that policy makers face all over the world.

Thus, in addition to presenting significant challenges, WCIT should be a call to action for members of the global Internet community – including technologists, policymakers, advocates, industry leaders,

and individual users – to focus their efforts to improve and expand the multistakeholder model of Internet governance so that it continues to serve the needs of *all* users across the globe.

Next Steps: Staying Engaged and Building Bridges

Although WCIT revealed deep regional and national differences over policy, there were bright spots to recognize as well. In fact, in reading through the final statements by governments to the conference, we see a number of strong statements of support for the overall Internet model, even among those who chose to sign the treaty. Many countries stated their commitment to playing an active role in the Internet economy, and to ensuring that their citizens are able to take advantage of the full value that the Internet has to offer. This is something to build upon. Our challenge, and the challenge of all supporters of the multistakeholder approach, is not only to advocate for the model, but also to ensure that it actually works for those who may doubt its effectiveness.

We can look to the Internet Governance Forum as a constructive mechanism within the UN system to bring together Internet stakeholders from around the world and as a model for multistakeholder dialogue that is inclusive of governments but not centrally managed by governments. The Internet Society has been a long-standing supporter of the IGF model, believing that genuine progress can be made in this environment. The vision of the IGF is also taking hold at the regional and national levels. In 2012, we participated in African, Arab, Caribbean, Latin American, and Indian IGF meetings. In the U.S., IGF-USA has become a very useful and important national event. But the IGF is only possible with the sustained support and commitment by all.

Beyond the dialogue, tangible action is also needed. The Internet community, through organizations like the Regional Internet Registries (RIRs), the Internet Corporation for Assigned Names and Numbers (ICANN), the Internet Engineering Task Force (IETF), the Internet Society (ISOC) and many others, has a long track record of working hard to make the Internet more inclusive and better for everyone through concrete activities.   Dating back to the earliest days of the Internet's development, there was a keen recognition that, to be truly successful, the Internet needed advocates around the world that could sustain and build Internet infrastructure and, in doing so, would expand the Internet to their local communities – whether in Silicon Valley or at a local university in Kenya. Beginning in 1992, the Internet Society hosted frequent developing country workshops that were attended by over 1,300 participants from over 94 countries. Many of the workshop participants are now Internet leaders in their country or region. We know that some of this training supported Internet pioneers in Ghana, Thailand, Argentina, and Brazil who are now spearheading Internet connectivity growth and sustainable Internet human capacity development and training in their communities. We continue this work today, strengthening partnerships and opportunities for the Internet to grow around the world.

Conclusion

The Internet Society is deeply grateful to the members of the subcommittees that called this hearing for addressing an issue of vital importance to the global Internet. We also sincerely appreciate the longstanding commitment of the United States government to the multistakeholder model of the Internet.

I want to leave the Subcommittees with one key message: please continue your support for the multistakeholder model of Internet policy development, both at home and abroad. As we face a high level of uncertainty going forward, the best way to respond post WCIT is to listen to the legitimate

concerns expressed by governments and work together to engage appropriately to demonstrate that the multistakeholder model remains the most robust and the most effective way to expand the benefits of the Internet to everyone. The importance of sustained U.S. commitment to the principles of the global, open Internet cannot be overstated. While the impact of WCIT will be felt for years to come, we can work together to ensure the Internet continues to transcend political divides, and serves as an engine for human empowerment throughout the world.