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**MEMORANDUM**

**FROM:** Wiley Rein LLP  
**DATE:** March 5, 2012  
**RE:** Sixth Meeting of the Council Working Group to Prepare for the 2012 WCIT (CWG-WCIT)

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Below is a high-level summary of issues discussed at the Sixth Meeting of the Council Working Group to Prepare for the 2012 WCIT (CWG-WCIT), which convened in Geneva, Switzerland, on February 27-29, 2012. The proposals below are separated thematically, with identical or substantially similar proposals grouped together. In addition to a very brief summary of the proposal, we have provided a citation to where the provision is discussed in the current draft of Temporary Document 43 (TD-43) Revision 2 (posted March 1, 2012). We have also noted whether the United States delegation has taken a clear position on a proposal, as reflected in TD-43.

The CWG agreed to continue to work within the structure of the current ITRs, and the scope of the current Contributions—virtually all of which were allowed to “go forward” into what will become a new compilation of options. The CWG rejected requests for separate drafting groups and agreed to proceed with only limited consolidation of language with “square brackets” showing variations between Contributions. TD-43 Rev. 2 will be open for Member States to comment until March 9, then compiled, translated into six languages, and released with a new TD number.

**1) Internet**

**Proposal:** Expand scope of ITRs to “all existing, emerging, and future telecommunication facilities and services.”

**Citation:** Russia Contribution 9; pg. 13 Article 1.3 Option 2 Mod 2

**Proponents:** Russia

**Opponents:** CEPT

**USA Position:** Object

**Proposal:** Oblige ITU to allocate/distribute some part of IPv6 addresses. distribution. Text to be defined.

**Citation:** Russia Contribution 40; pg. 63 Article 3.8 Option 1 Add 1

**Proponents:** Russia

**Opponents:** CEPT, Australia, and Canada reserve their positions until text is provided.

**USA Position:** Reserve

**Proposal:** Expand the definition of “international telecommunication service” to include traffic termination services, including Internet traffic termination.

**Citation:** Russia Contribution 55; pg. 24 Article 2.2 Option 1 Mod

**Proponents:** Russia, Belarus, Moldova, Côte d’Ivoire

**Opponents:** Canada, CEPT

**USA Position:** Object

**Proposal:** Add “processing” of signs, signals, writing, images, and sounds or intelligence of any nature to the definition of “telecommunication.”

**Citation:** Arab States Contribution 67; pg. 23 Article 2.1 Option 1 Mod

**Proponents:** Arab States, Russia, Egypt, Mexico

**Opponents:** Spain, UK, Netherlands

**USA Position:** Object

**Proposal:** “Member States shall ensure that each party in a negotiation or agreement related to or arising out of international connectivity matters including those for the Internet will have standing to have recourse to the competition authorities of the other party's country.”

**Citation:** Africa Contribution 60; pg. 89 Article 6.7 Option 2 Add 2

**Proponents:** Africa

**Opponents:** CEPT

**USA Position:** Object

**Proposal:** New Article 9 provisions in Internet governance; IP telephony; and quality of service, among others.

**Citation:** Annex 3 of the 2005 Report of the CWG on ITR; pg. 116 Article 9 Option 6 Add 6

**Proponents:** Russia and Egypt support in principle but reserve their positions until text is provided.

**Opponents:** Canada and CEPT reserve until text is provided.

**USA Position:** Reserve

## 2) Cyber Security

**Proposal:** Expand the scope of the ITRs to include security.

**Citation:** Arab States Contribution 67; pg. 13 Article 1.3 Option 3 Mod 3

**Proponents:** Arab States, Russia, Algeria

**Opponents:**

**USA Position:** No objection recorded

**Proposal:** New definitions for telecommunications security, text to be provided.

**Citation:** Russia Contribution 40; pg. 46 Article 2 Option 2 Add 2

**Proponents:** Russia

**Opponents:** CEPT and Canada reserve

**USA Position:** Reserve

**Proposal:** Add “new definitions for telecommunications security, personal data, roaming, online child protection. Text to be supplied.”

**Citation:** Russia Contribution 9; pg 46; Article 2 Option 1 Add 1

**Proponents:** Russia

**Opponents:**

**USA Position:** Object

**Proposal:** New 8.5: “(a) Member-States have the responsibility and right to protect the network security of the information and communication infrastructure within their state, to promote the international cooperation to fight against network attacks and disruptions; (b) Member-States have the responsibility to require and supervise that enterprises operating in their territory use ICTs in a rational way and endeavor to ensure the effective functioning of ICTs, in secure and trustworthy conditions; (c) User information in information and communication network should be respected and protected. Member-states have the responsibility to require and supervise that enterprises operating in their territory protect the security of user information.”

**Citation:** China Contribution 59; pg. 107 Article 8.5 Option 1 Add

**Proponents:** China

**Opponents:**

**USA Position:** Reserve

**Proposal:** New article that interception and monitoring (including that of international telecommunications) be subject to due process authorization in accordance with national law. Text to be developed.

**Citation:** Africa Contribution 60; pg. 117 Article 9 Option 9 Add 9

**Proponents:** Africa

**Opponents:**

**USA Position:** No objection recorded

**Proposal:** New Article x: “(x.1) Member States should cooperate regarding telecommunications security matters (including cyber security), in particular to develop technical standards and acceptable legal norms, including among others those regarding territorial jurisdiction and sovereign responsibility; (x.2) Member States shall cooperate to harmonize national laws, jurisdictions, and practices in the areas of: the investigation and prosecution of cybercrime (including eavesdropping and breach of privacy of telecommunications); data preservation, retention, protection (including personal data protection), and privacy; and approaches for network defense and response to cyberattacks.”

**Citation:** African Contribution 60; pg. 117 Article x Option 10 Add 10; *see also* SG3RG-AO Contribution 27; pg. 113 Article 9 Option 1 Add 1; SG3RG-AO Contribution 27; pg. 114 Article 9 Option 2 Add 2

**Proponents:** Africa

**Opponents:** Canada

**USA Position:** Object

### 3) Mobile Roaming

**Proposal:** Add mobile roaming to definition of “international telecommunication service.”

**Citation:** Russia Contribution 55; pg. 24 Article 2 Option 1 Mod 2.2; *see also* Russia Contribution 40; pg. 46 Article 2 Option 2 Add 2;

**Proponents:** Russia, Belarus, Moldova, Côte d’Ivoire

**Opponents:** Canada, CEPT

**USA Position:** Object

**Proposal:** “Member States shall ensure that operators providing international telecommunication services, in particular international roaming, provide transparent and up-to-date information on retail charges, including roaming charges. [In particular, each customer should also be able to easily have access to, and receive appropriate and timely pricing (including taxes) information free of charge when abroad on the relevant price plan, except when the customer has notified his home operator that he does not require this service].”

**Citation:** CEPT Contribution 71; pg. 77 Article 6.1.1 Option 1 Add 6.x

**Proponents:** CEPT

**Opponents:**

**USA Position:** Support

**Proposal:** Costs of international roaming services: “(a) Member States shall ensure effective cooperation within their region to develop a policy for reducing charging which is appropriate for their own region; (b) Member States shall promote economic efficiency and encourage competition in the international roaming market.”

**Citation:** CEPT Contribution 71; pg. 78 Article 6.1.1 Option 1 Add 6.y

**Proponents:** CEPT

**Opponents:**

**USA Position:** No objection recorded

**Proposal:** Several Member States support new provisions regarding roaming tariffs, pricing transparency, and cost-oriented pricing.

**Citation:** Russia Contribution 40; pg. 94 Article 6 Option 1 Add; SG3RG-AO Contribution 27; pg. 114 Article 9 Option 3 Add 3; Arab States Contribution 6; pg. 94 Article 6 Option 2 Mod 2; Africa Contribution 60; pg. 92 Article 6.12 Option 1 Add

**Proponents:** Russia, Côte d’Ivoire, Egypt,

**Opponents:** CEPT

**USA Position:** Reserve on Russia Contribution 40 and SG3RG-AO Contribution 27, No objection recorded on Arab States Contribution 6 and Africa Contribution 60

#### 4) Applicability to Private Entities

**Proposal:** Treaty obligations should apply to “operating agencies” or “recognized operating agencies.” This could have different effects depending upon national law in the jurisdiction—in the U.S., it might mean that ISPs and other previously unregulated private companies are covered.

**Citation:** TD 21 Rev. 1 and Côte d’Ivoire; pg. 2; Option 1 Mod 1; Arab States Contribution 68; pg. 11; Article 1.1 Option 3 Mod 3

**Opponents:** Canada, CEPT

**Proponents:** Arab States

**USA Position:** Object

#### 5) Routing

**Proposal:** “A Member State shall have the right to know through where its traffic has been routed, and should have the right to impose any routing regulations in this regard, for purposes of security and countering fraud.”

**Citation:** Arab States Contribution 67; pg. 53 Article 3.3 Option 4 Mod 3

**Proponents:** Arab States, Egypt

**Opponents:**

**USA Position:** No objection recorded

**Proposal:** “Operating agencies shall determine by mutual agreement which international routes are to be used. Pending agreement and provided that there is no direct route existing between the terminal operating agencies concerned, the origin operating agency has the choice to determine the routing of its outgoing telecommunication traffic, taking into account the interests of the relevant transit and destination operating agencies. Member States can request information on the routes used by their operating agencies and may impose restrictions on routing.”

**Citation:** Arab States Contribution 68

**Proponents:** Arab States

**Opponents:**

**USA Position:** No objection recorded

#### 6) Spam

**Proposal:** Add new definition of spam.

**Citation:** Russia Contribution 22; pg. 37 Article 2.13 Option 1 Add; *see also* Source Opinion 6 WTPF

**Proponents:** Russia, Algeria, Egypt, Arab States, Côte d’Ivoire

**Opponents:** Australia, Canada

**USA Position:** Object

**Proposal:** New countering spam provisions encouraging Member States to adopt national legislation to act against spam, cooperate to take actions to counter spam, and exchange information on national findings/actions to counter spam.

**Citation:** CEPT Contribution 71; pg. 108 Article 8.6 Option 1 Add

**Proponents:** CEPT

**Opponents:**

**USA Position:** No objection recorded

**Proposal:** Member States should cooperate to take actions to counter spam, including through consumer and business education; appropriate legislation, law-enforcement authorities and tools; the continued development of technical and self-regulatory measures; best practices; and international cooperation.

**Citation:** SG3RG-AO Contribution 27; pg. 114 Article 9 Option 2 Add 2

**Proponents:** Egypt

**Opponents:** Canada

**USA Position:** Object

## 7) Converting Recommendations to Regulations

**Proposal:** Various proposals would make Recommendations mandatory unless otherwise specified.

**Citation:** TD 21 Rev. 1 and Russia; pg. 14; Article 1.4 Option 1 Mod 1

**Proponents:** Africa, Arab States, Iran, Russia

**Opponents:** CEPT, Netherlands, Bulgaria, UK, Sweden, Canada, Korea

**USA Position:** Object

## 8) Economic Re-Investment

**Proposal:** Replace Article 6 with new language emphasizing price transparency, cost oriented pricing, ensuring an adequate return on investment in network infrastructure, ensuring fair compensation is received for carried traffic, and creating universal service funds/obligations.

**Citation:** SG-3 Regional Group for Latin America and the Caribbean Contribution 25; pg. 95; Article 6 Option 1 Mod 1

**Proponents:** SG3RG-LAC

**Opponents:** Brazil, CEPT

**USA Position:** Opposed

## 9) Article 9

**Proposal:** Various proposals to add new provisions to Article 9, or new articles altogether, to cover “the settlement of disputes, quality of service, Information security, Security of signaling and traffic information; billing information; control and security of data; managing synchronization of call count, Prohibitions on alternative calling arrangements, Calling number transmitting service, Internet governance, New accounting rate methods, IP telephony, International mobile roaming, International mobile satellite service, Universal service, User of international networks.”

**Citation:** Annex 3 of the Report of CWG on ITR submitted to Council 2005; pg. 116; Option 6 Add 6

**Proponents:** Algeria, Egypt, Russia

**Opponents:**

**USA Position:** Reserve

**10) Fraud/Numbering/Misuse/Caller ID/Data Privacy**

**Proposal:** Make mandatory ITU-T Recommendations on naming, numbering, addressing, and identification. “Member States shall ensure that international naming, numbering, addressing and identification resources are used only by the assignees and only for the purposes for which they were assigned; and that unassigned resources are not used.”

**Citation:** Arab States Contribution 67; pg. 57; Article 3.5 Option 4 Add 4; Arab States Contribution 67; pg. 61; Article 3.7 Option 1 Add 1

**Proponents:** Arab States, Egypt, Côte d’Ivoire, Pacific Islands, Cuba

**Opponents:** CEPT, Australia, Canada

**USA Position:** Object

**Proposal:** Require delivery of international calling party number information, consistent with ITU-T Recommendations.

**Citation:** Egypt Contribution 80; pg. 60; Article 3.6 Option 9 Add 9

**Proponents:** Egypt, Arab States, Côte d’Ivoire, Iran, Cuba, UAE, Pacific Islands

**Opponents:**

**USA Position:** Object

**Proposal:** Proposed new definitions of “hub” and “hubbing” asserted as necessary because many “fraudulent activities” are related to hubbing of international traffic.

**Citation:** Arab States Contribution 67; pg 38; Article 2.14 Option 1 Add

**Proponents:** Arab States, Egypt

**Opponents:** Canada, CEPT

**USA Position:** Object

**11) Double Taxation**

**Proposal:** Several proposals would revise or add new language to Article 6.1.3 to prohibit double taxation.

**Citation:** SG-3 Regional Group for Africa Contribution 18; pg. 79; Article 6.1.3 Option 1 Mod 1

**Proponents:** SG3RG-AFR, SG3RG-LAC, SG3RG-AO, Brazil, GSMA, CEPT

**Opponents:** Russia

**USA Position:** Opposed

**12) Future of the ITRs**

**Proposal:** Discussion of how often the ITRs should be revised. ITU Secretariat suggested periodic revisions, similar to the Radio Regulations. Some Members recommend future revisions “may need to be done in a more flexible and timely manner.”

**Citation:** TD 21 Rev., Iran, Russia, Mexico, UAE; Pg. 121; Article 10 Option 1 Add

**Proponents:** Iran, Egypt, Russia, Mexico, UAE

**Opponents:**

**USA Position:** Opposed.

**Proposal:** ITU Secretariat explained Contribution 62, which considers the consequences of suppressing current ITU provision 10.3. The effect of suppression would be to give full effect to any country's reservations taken against the revised ITRs by default.

**Citation:** The Contribution was discussed at the CWG but no specific proposal related to the discussion is noted in TD-43

**Proponents:**

**Opponents:**

**USA Position:** None required

**13) Entry Into Force**

**Proposal:** The revised ITRs shall enter into force on January 1, 2015, pursuant to the provisions of Article 54 of the Constitution.

**Citation:** Arab States Contribution 67; pg. 119; Option 3 Sup 10.1 through 10.4 and Mod 3

**Proponents:** Arab States, UAE

**Opponents:**

**USA Position:** No objection recorded

Member States participating in person at the Sixth Council Working Group were: Argentina, Armenia, Australia, Benin, Bulgaria, Burkina Faso, Canada, China, Costa Rica, Côte d'Ivoire, Congo, Egypt, Finland, France, Germany, Ghana, Iran, Italy, Jamaica, Japan, Korea, Lao, Lesotho, Mexico, Netherlands, Niger, Paraguay, Poland, Russia, Rwanda, Saudi Arabia, Slovak Republic, Spain, Sweden, Switzerland, Tanzania, Turkey, United Arab Emirates, United Kingdom, United States of America, and Vietnam.