

Testimony of
Ambassador David A. Gross
Deputy Assistant Secretary of State for
International Communications and Information Policy
before the
House Government Reform Subcommittee on National Security,
Emerging Threats and International Relations
March 17, 2004
World Radiocommunication Conferences

Introduction

Mr. Chairman, distinguished members of the Subcommittee, I want to thank you for holding this important hearing and I appreciate the opportunity to testify on this issue. I am Ambassador David Gross, Deputy Assistant Secretary for International Communications and Information Policy (CIP) at the Department of State. The Department of State has the authority and ultimate responsibility for establishing U.S. foreign policy with respect to international telecommunications.

CIP is the focal point within the Department for the International Telecommunication Union's (ITU) World Radiocommunication Conference (WRC) preparations. In fact, CIP is the U.S. government focal point for ITU matters generally. We think it is important to recognize that WRCs are the pinnacle of a global process that allows new services and technologies to go

forward, while providing them a place in an international order that ensures globally harmonized communications that are interoperable and seamless. In this process, the United States must maintain an overarching world-view and approach that advances U.S. foreign, economic and national security goals, recognizing that what CIP does in all meetings-both bilateral and multilateral- impacts WRCs and visa versa. WRCs are truly at the intersection of foreign and economic policy and communications technology. In summation, the importance of the decisions made at WRC cannot be overstated as those decisions significantly impact national security, economic growth and the creation of U.S. jobs.

In our WRC role, we endeavor to make constant improvements to the WRC preparatory process by building on our experiences from past conferences. At the same time, recognizing that each WRC is unique, we believe that it is important to retain flexibility in our approach in order to take advantage of opportunities that arise.

In addition to the Department's general authority over the conduct of U.S. foreign relations, the legal authority for the Department's role in U.S. policy development and preparations for WRCs is derived from 22 U.S.C. 2707(b). This provision states that the "Secretary of State shall be responsible for the formulation, coordination and oversight of foreign policy

related to international telecommunications and information policy,” including exercising “primary authority for the conduct of foreign policy with respect to such telecommunication functions, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies.” The statute further states that, in exercising this authority, the Secretary shall coordinate with other agencies as appropriate and give “full consideration to the authority vested by law or executive order” in the Federal Communication Commission, Department of Commerce and the Office of the United States Trade Representative (USTR).

WRCs are held under the auspices of the International Telecommunication Union’s Radiocommunication Sector (ITU-R) and are convened on a recurring basis. These conferences have a mandate to consider specific radiocommunication matters, including proposals for revisions to the Radio Regulations and associated frequency assignment and allotment plans. To the extent that the Senate has given its advice and consent, the Radio Regulations constitute an international obligation binding on the United States concerning the use of the radio-frequency spectrum by U.S. radiocommunications services. Revisions to the Radio Regulations are proposed at the WRC on the basis of an agenda that is recommended by the

previous WRCs and approved by the ITU Council, the 46-country board that governs the ITU between Plenipotentiary Conferences.

Process

Preparing for WRCs is a continuous process. Immediately following a WRC, the ITU-R convenes the first of two sessions of the Conference Preparatory Meeting (CPM). The U.S. delegation, led by the Department of State, participates in an examination of the agenda items for the next WRC. Delegations attending the CPM identify areas needing further technical study to support the spectrum and technical decisions that will occur at the next WRC. These technical issues are assigned to the various relevant Radiocommunication Study Groups. These Study Groups (and their sub-groups) are made up of technical experts from countries and telecommunications organizations throughout the world. They study and make recommendations on different radiocommunication services, radio system characteristics and the use of the spectrum and satellite orbits. Specifically, studies are completed within these groups to demonstrate how existing services can be protected while providing sharing opportunities for new services. A product of this first CPM is an outline of the technical report that will be forwarded to the next WRC.

This report, created as a result of the work of the Study Groups, provides the basis for the technical decisions of the next WRC. The report is finalized at a second CPM, which is held about six months before the WRC is convened. The Study Groups (7 in all, with 37 sub-groups) and their sub-groups, meet from one to three times each year during the study group cycle, which coincides with the periods between WRCs. Study Group work is based on technical input documents from countries and sector members.

U.S. telecommunications experts, both from government and the private sector, participate extensively in the ITU-R Study Group process. The work of these experts is organized into groups that parallel those of the ITU-R Study Groups. The groups all carry out their work within the framework provided by International Telecommunication Advisory Committee-Radiocommunication Activity (ITAC-R). This advisory committee is chartered by the General Services Administration (GSA) to the Department of State as an advisory committee under the Federal Advisory Committee Act (FACA). The ITAC-R advisory process is the mechanism used by the U.S. Department of State to obtain the information and advice it needs to formulate the materials it provides to the delegations it leads and the papers it submits to international and regional meetings.

The State Department-led ITAC-R is a key component of the U.S. preparatory process for WRCs. During the intervals between WRCs, the various domestic technical groups, who represent all spectrum users, meet to provide technical input to the U.S. government. These papers are channeled through the ITAC-R National Committee, a group open to all technical experts who care to participate, where they are reviewed and commented upon. When differences occur, the Department acts as a mediator to reach resolution. At the same time, these documents undergo a policy review within the Department. All text generated in the United States that is intended for international audiences, including input documents to the Study Group process and proposals to the CPM and WRC, must be approved by the Department of State in consultation with the Federal Communications Commission (FCC) and the Department of Commerce's National Telecommunications and Information Administration (NTIA). Once this process is complete, the Department forwards the documents to the ITU-R.

The ITAC-R is also key to U.S. efforts to work within the Inter-American Telecommunication Commission (CITEL), the regional telecommunication arm of the Organization of American States (OAS). All documents submitted to these meetings must first go through the Advisory

Committee process and be approved by the Department in consultation with NTIA and the FCC.

Under the ITAC-R, the Department of State also hosts a series of National Committee meetings when preparing for WRCs. These meetings provide a forum for all spectrum users, government and private, to come together before the U.S. delegation is formed to discuss and advise the Department on conference issues. Meetings such as these are intended to complement the FCC and NTIA preparatory processes in order to bring all groups together to facilitate debate.

Both NTIA and FCC also have ongoing WRC preparatory processes. The result of their work is two sets of draft proposals. Much of the technical work that is the basis for these proposals is completed within the context of the ITU-R Study Group process. When complete, these proposals are then jointly reviewed, coordinated and modified when necessary by the NTIA and the FCC. They are then forwarded to the Department of State where they are reviewed and, if necessary, revised and then forwarded to the ITU.

As is always the case when there are competing uses for available spectrum and orbit resources, some issues are more difficult to resolve than others. A particularly challenging problem during the preparatory phase of past WRCs was determining when contested issues were ripe for resolution.

To address this, the Department of State coordinated and led a meeting of U.S. government Principals during its preparatory process for WRC 2003. This meeting was initiated to ensure higher level, interagency oversight of the WRC preparatory process at the earliest possible stage. It addressed such issues as possible nominees to recommend to the President to head the U.S. Delegation to WRC, resources that could be committed by the various agencies to the preparatory process and to the WRC itself, and how best to coordinate these resources. The group also discussed issues that were still under debate domestically as well as a time frame within which resolution of those issues could be reached. While this group was never called upon to make final decisions on such issues, I believe that the existence of this group, along with the focus of the principals in the various agencies who were capable of making such decisions, assured that all proposals were completed sufficiently early to effectively advance U.S. interests. Moreover, the fact that U.S. proposals were completed in record time allowed CITEL to be the first regional organization to submit regional proposals to the ITU. This resulted in the Americas being first of all the ITU regional groups to present its proposals at the WRC, and also allowed us to influence the proposals of other regional groups.

From our experience with previous WRCs, we also believe that certain issues needed attention in advance of the announcement of the WRC Head of Delegation. To address these issues, we initiated a second group, the Core Committee. It consisted of representatives from NTIA, FCC, Department of Defense (DOD), and the National Aeronautics and Space Administration (NASA). Its purpose, like that of the Principal's group, was to assist in coordinating the work of conference preparations at an earlier stage. This group met several times before a Head of Delegation was announced. It examined and proposed a Conference structure and developed a list of international Committee Chairs to lead the work of the WRC. Another purpose of this group was to identify and attempt to reconcile differences in positions and proposals on Conference issues at an early date so that these proposals could be discussed and support sought for U.S. proposals at regional, bilateral and international meetings leading up to the WRC. The group also identified areas of divergence with other Regions and countries in the hopes of resolving those differences in negotiations prior to the WRC. Finally, the group also created a draft list of U.S. spokespersons and committee chairs so that these groups could begin meeting and carrying out the necessary preparatory work before the delegation was formed.

The good working relations among the staff from the various agencies participating in this group enabled it to significantly advance the necessary preparatory work before the WRC Ambassador was appointed. Both of these groups were noted in the WRC Delegation Report and the Department plans to continue both with meetings of Principals and meetings of a preliminary Core Committee in its future preparatory work.

Head of WRC Delegation

The head of delegation to the WRC is appointed by the President, who also confers the personal rank of Ambassador. The person selected is given a six-month appointment as an expert consultant to the Department of State's Bureau of Economic and Business Affairs and reports to the head of CIP. The person selected files a financial disclosure form, and must undergo a conflict-of-interest review and clearance by the Department's ethics lawyers, consistent with applicable laws.

The Department also plays a key role in preparing WRC ambassadors for their role as Head of Delegation. Under Department leadership before the appointment of the WRC 2003 Ambassador, a briefing book was prepared that addressed every agenda item. The Department also provides office space and administrative support for the WRC Ambassador, assists in

arranging bilateral and multilateral meetings with other countries and regional groups, and arranges for discussions with senior ITU officials.

Outreach

The Department of State lends support to outreach efforts that are important to certain entities at upcoming WRCs. For example, the Department of State assists groups that export U.S. informational materials into countries hosting regional meetings to educate delegates attending these meetings on various telecommunications equipment and services. These efforts are intended to gain support, through education, from foreign delegates for U.S. proposals.

The Department also leads delegations participating in the Permanent Consultative Committee of CITELE, the group that addresses radiocommunication and broadcasting issues. It is through these meetings that Inter-American Proposals (IAPs) are submitted from the Americas to the WRC on behalf of many of the Western Hemisphere countries.

The Department also assists in organizing small delegations, led by the WRC Ambassador, with experts from the Department, NTIA, FCC, DOD, NASA and the Federal Aviation Administration (FAA), to engage in an aggressive pre-WRC outreach effort. For example, before WRC 03, these small delegations met with over 40 countries and attended regional

meetings that included Europe (in Portugal), the Americas (in Florida), Africa (in Gabon) and Asia (in Japan). While budget and time constraints would have made individual meetings in over 40 countries impossible, we continue to take advantage of regional meetings to hold bilateral meetings with as many countries as possible, a practice that began before WRC 95. These bilateral meetings complement CIP's ongoing bilateral and multilateral work and set the stage specifically for WRC issues. These discussions with international partners are key to the U.S. success at WRCs.

During the preparatory phase the Department also sent cables to embassies throughout the world in order to gain support for U.S. proposals. This was especially useful after regional meetings, such as CITELE, when delegations were undecided on whether to support a U.S. proposal. Embassy officials were asked to discuss U.S. proposals with the government communications experts in various countries and to ask them to join in supporting these proposals. In at least one instance, this resulted in the U.S. proposal being chosen over another country's proposal in representing the regional view. This was of great significance to DOD and the U.S. delegation because our negotiations at the WRC had the weight of the region behind them.

Structure of the Delegation

Once the WRC Ambassador is appointed, a delegation is proposed and the Department goes through the accreditation process. Vice Chairs are appointed from the Department, NTIA and the FCC; heads of committees, that parallel the WRC committee structure, are confirmed; and the delegation begins to meet on a weekly basis until the Conference begins. It is at this time that the Delegation takes on its final shape, position papers are completed along with talking points on all the agenda items, and strategies are charted together with fallback positions, as appropriate.

During WRC 2003, Department of State officers headed six of the eight committees to help manage the work of the Delegation leading up to and during the WRC. It provided an Executive Director and general support for the four-week conference. The Department's efforts in support of the U.S. delegation at the WRCs are Department wide, as demonstrated by the expert support that the U.S. mission provides regarding arrangements for the U.S. Delegation and U.S. activities both before and during the Conference, and by the offices that are set up and staffed by the Department's Office of International Organizations for the delegation as a whole and for the Ambassador personally. These efforts greatly facilitate the work of the Delegates during the conference.

Results

It is important to note that at WRC 03 the U.S. delegation achieved all of its major objectives. In fact, the United States has been remarkably successful at WRCs. The delegations to WRCs make decisions that are critical to the national security interests, economic growth and scientific endeavors of all nations. It is a testament to the process that the U.S. has never lost an important objective through its participation in ITU WRCs. And the process itself is easing a bit. For example, until WRC 2003, there was an alarming increase in agenda items. Each country wanted its specific issues addressed and showed little willingness to compromise. Such an approach resulted in the 48 agenda items that were addressed by the 2003 WRC. There finally appears, however, to be a trend in the opposite direction. I am happy to report that the agenda for WRC 2007 has only 27 items, a marked improvement to what was fast becoming an unmanageable process. Moreover, the next Conference is scheduled to occur in 2007. This is an interval of four years. Even with a four-year interval, however, the work of the Study Groups is well underway and a team of U.S. experts is already extensively engaged in preparing for WRC-07.

We at the Department of State look forward to opportunities to further improve on the WRC process. We look forward to working with the private

sector, NTIA, FCC, NASA, DOD and all other agencies that participate at the WRC.