



General Assembly's overall review of the implementation of WSIS outcomes

Official Form for Comments on the Non-paper

A. Your Information

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B. Formal Input

This is a joint submission that has been endorsed by the following organizations: ARTICLE 19, UK; Center for Technology and Society of the Getulio Vargas Foundation School of Law in Rio de Janeiro (CTS-FGV), Brazil; Fundación Karisma, Colombia; Global Partners Digital, UK; iNGO European Media Platform, Ukraine.

First, we welcome and commend this open consultation process for supporting the development of the WSIS+10 Review Non-Paper. On this occasion, we provide the following comments to the September 2nd, 2015 version of this document.²

We write to you as a group of public-interest organizations and individuals from around the world who have been committed to the WSIS process since its discussions in early 2000s, and who work in the areas of Internet policy, human rights, and development. We strongly share the vision and commitments of an Information Society in which everyone can create, access, utilize and share information and knowledge.

Comments on Section "Preamble"

¹ When specifying your stakeholder type, please indicate one of the following: Government, Civil Society, Private Sector, Academia, and Technical Sector.

² Available at <http://unpan3.un.org/ws10/Events/1st-Preparatory-Meeting/Comments-for-Non-Paper>

With the rapid development of Information Communication Technologies (ICTs) and their mainstream into everyday life, the link between these technologies and human development has never been clearer. The Internet is a powerful driver of economic growth and innovation. The Internet economy of G-20 nations will nearly double in value to \$4.2 trillion by 2016.³ In the U.S. alone, the most recent estimate of retail e-commerce sales - which is only one of the components of the "Internet economy" - for the first quarter of 2015 was \$80.3 billion.⁴ By 2016, there will be three billion Internet users, or 45 percent of the world's population.⁵

The Internet and other digital technologies can potentially ignite social development and transformation by improving access to basic services, enhancing connectivity, and creating employment opportunities. The correlation with social dividends (employment, rapid growth, and improved services), now called digital dividends, become clearer every year. We now know that the rapid penetration of digital technologies is changing the lives of the poor.⁶

However, while many of the Internet's profound transformations are beneficial, rapid changes are always disruptive, creating many winners but also losers. For instance, access to information and knowledge is far from being universal and equitable.⁷ And while mobile penetration improves connectivity, the price of mobile broadband access, and the lack of infrastructure (e.g. lack of electricity in rural and poor areas)⁸ continue to present barriers to the realization of the WSIS vision for a people-centred, inclusive, development-oriented Information Society today.

In this sense, we strongly believe that the resulting paper, to be agreed upon at the end of the WSIS+10 review process, should reaffirm a series of commitments made in 2003 and 2005, since the barriers and the work that remains are still contemporaneous. Countries and populations are still at risk of being left behind and unable to enjoy the benefits of an Information Society if concerted policy, funding, knowledge sharing, and capacity building efforts are not set in place.

The WSIS process, since early 2003, came into being exactly to ensure that the digital divide would not be forgotten and that the risks would not be overlooked. And as a result both governments and private stakeholders made strong commitments that are still relevant today. Thus, we believe that not only the vision expressed in the 2003 and 2005 documents should be reaffirmed in *Paragraph 1 of the Preamble of the Non-Paper*, but countries should, clearly and expressly, by the end of 2015, also recommit themselves to the norms and action lines expressed in those documents (Declaration of Principles of 2003, Plan of Action of 2003, Tunis Commitments of 2005, Agenda for the Information Society of 2005).⁹

³ The G-20's Internet Economy Is Set to Reach \$4.2 Trillion by 2016 -- Up From \$2.3 Trillion in 2010 -- As Nearly Half the World's Population Become Web Users, Says Report by The Boston Consulting Group, Market Wired (Jan. 27, 2012) available at <http://www.marketwired.com/press-release/g-20s-Internet-economy-is-set-reach-42-trillion-2016-up-from-23-trillion-2010-as-nearly-1611718.htm> .

⁴ Fed. Census Bureau, Quarterly Retail E-Commerce Sales 1st Quarter 2015 (2015) available at https://www.census.gov/retail/mrts/www/data/pdf/ec_current.pdf .

⁵ The G-20's Internet Economy, *supra* at note 1.

⁶ The 2016 World Development Report Concept Note, World Bank (the full report will become available in January 2016) http://www.worldbank.org/content/dam/Worldbank/Publications/WDR/WDR%202016/WDR2016_Concept_Note.pdf

⁷ Towards Knowledge Societies for Peace and Sustainable Development, UNESCO (2015) http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/wsis/WSIS_10_Event/wsis10_outcomes_en.pdf

⁸ Understanding barriers to mobile Internet adoption in Kenya and Ghana, Google Africa (2012) available at <http://google-africa.blogspot.com/2012/12/understanding-barriers-to-mobile.html> and Offline and falling behind: Barriers to Internet adoption, McKinsey & Company (2014) available at http://www.mckinsey.com/insights/high_tech_telecoms/Internet/offline_and_falling_behind_barriers_to_Internet_adoption

⁹ In 2003, the United Nations (UN) established the World Summit on the Information Society (WSIS), recognizing the urgent need to harness the potential of Information Communication Technologies (ICTs) to promote the goals of the UN Millennium Declaration. The two-phase summit (Geneva 2003 and Tunis 2005) defined the issues, policies, and frameworks to tackle ICTs in order to foster development. WSIS began with the

Additionally, by reviewing the WSIS+10 Statement on the Implementation of WSIS Outcomes¹⁰ and comparing it to the current text of the *Non-Paper*, we have noticed that not all of the 30 items recognized as “challenges during [the] implementation of Action Lines and new challenges that have emerged”¹¹ post-2015 have been properly and directly addressed. For example, this includes, “the need for greater engagement of youth and enhancement in their participation in the WSIS process”, “the need for further improving management and use of radio-frequency spectrum/satellite orbits for facilitating development and deployment of low-cost telecommunication networks,” “the ICT role in poverty reduction,” and “the need to promote access for all to public information and knowledge, including open access to scientific information, particularly in developing and least developed countries”¹². The statement resulting from the WSIS+10 High Level event represents the consensus among stakeholders involved in the WSIS+10 review process, and thus represents the consensus of where works needs to be done. Therefore, we suggest that the authors of the Non-Paper consider addressing each and every one of these 30 issues in the next iteration of the Non-Paper.

Regarding paragraph 3 of the *Preamble of the Non-Paper*, we stress the need to share the benefits of the digital economy more equally and to avoid concentration that hampers innovation and competition. Regarding *Paragraph 4 of the Preamble of the Non-Paper*, we notice that technology will continue to advance, and the ICT’s life cycle has proven to be one of the fastest known to humankind. Thus governments and stakeholders should not limit their commitments to one type or form of digital technology presently available. The commitments should focus on any appropriate technology, present or future, that is the best identified to support the most pressing development goals of a certain population within certain geography. However, it is clear access to core infrastructure, including but not limited to energy, cables, servers, and spectrum, will always be necessary and should be clearly stated in this paragraph.

Regarding *Paragraphs 5 and 6 of the Preamble of the Non-Paper*, the final paper should recognize the pressing need of access to information and knowledge and capacity building as the foundational stone to ensure that populations are empowered and able to make their own choices about which technology is mostly appropriate for their development needs. While international assistance is a current need, that work and the work of local governments and stakeholders should be focused on guaranteeing community driven solutions to their local problems. Access to knowledge is the primary substance required to formulate these solutions and drive independence.¹³

We commend the language in *Paragraph 7 and Paragraph 26* of the Non-Paper for the recognition and recommitment to multistakeholder processes and the Internet Governance Forum (IGF). The IGF has served as a vital space for the international multistakeholder community to engage in candid conversations on Internet

common vision, desire, and commitment to building a people-centric, inclusive, and development-oriented Information Society where everyone can create, access, utilize, and share information. In the first phase, a Plan of Action was devised with a series of Action Lines to cover issues such as human rights, greater engagement of youth and the disabled, expansion of ICT infrastructure, increasing access to information and knowledge, and building confidence and security in the use of ICTs. The second WSIS phase highlighted Internet governance issues and led to the creation of the Internet Governance Forum (IGF) to serve as a multi-stakeholder venue for the discussion of public policy issues related to the Internet and the enhancement of cooperation.

¹⁰ WSIS+10 Statement on the Implementation of WSIS Outcomes (2014) available at

<http://www.itu.int/wsis/implementation/2014/forum/inc/doc/outcome/362828V2E.pdf>

¹¹ See Section C. Challenges during implementation of Action Lines and new challenges that have emerged

<http://www.itu.int/wsis/implementation/2014/forum/inc/doc/outcome/362828V2E.pdf>

¹² See Section C. Challenges during implementation of Action Lines and new challenges that have emerged (paragraphs 3, 6, 10, and 12)

<http://www.itu.int/wsis/implementation/2014/forum/inc/doc/outcome/362828V2E.pdf>

¹³ African Genius, 14-Year-Old Self Taught Engineer makes Electricity For Village (2009) available at

<https://www.youtube.com/watch?v=rruNxURIWCY> and <http://williamkamkwamba.typepad.com/>

policy. It has been crucial in measuring responses to key Internet related issues and building the narrative and knowledge of the Internet governance field. It is important to extend the IGF's mandate and to fully implement the recommendations made in the report of the CSTD working group on improvements to the Internet Governance Forum.

However, we would like to see a clear a commitment to governance frameworks that are open, inclusive, and participatory not only on the IGF, but also in other fora that impact, sometimes in a greater scale, Internet and ICT related policy making. Non-exclusive examples are the negotiations at the ITU, including those of the upcoming World Radio Communication (WRC), which will decide the future of how countries share spectrum, the ITU Plenipotentiary meetings, and negotiations of trade agreements that impact on Internet policy making. We support the vision that the respective roles and responsibilities of stakeholders should be interpreted in a flexible manner, contextual to the issue under discussion.

Regarding *Paragraph 8*, the outcome documents produced by UN agencies during the WSIS review process identify key issues and provide valuable guidance to policy discussions in the future. We believe that it is insufficient to "take note" of these documents. Rather, follow-up discussions and initiatives need to be put in place in the UN system. Our rationale comes from a diplomatic standpoint: "to take note" is a weak phrasing in terms of acknowledgement because it merely states that "we know they exist." These documents were the only ones in which some present challenges were addressed, such as the importance of whistleblowers.¹⁴

Comments on Section “Digital Divide”

In regards to the second section of the *Non-Paper – the digital divide* – we recognize the persistent changing nature of the digital divide, that continues to present a major challenge to the achievement of a people-centered, inclusive, and development-oriented Information Society. Additionally, keeping up with the fast life cycle of technology can also represent a challenge to developing countries. Currently, more than 4.3 billion people are still not online, and 90 percent of them live in the developing world. Within those, men are twice more likely to have access to the Internet than women.

Thus, we commend the focus on bringing women online offered by *Paragraph 11*. The benefits of bringing women online are many, from individual benefits (knowledge, community respect and confidence), to economic benefits (the entrepreneur activities that will then be led by those women).¹⁵ However, we would also recommend that clear language be set in regard to digital inclusion of young women and the LGBT community.

Regarding *Paragraph 12*, we request the inclusion of language to support public access to ICTs for those who need it. We believe that public access is key to achieving universal access to the Internet, as declared in the WSIS+10 Statement on Implementation of WSIS Outcomes¹⁶.

Regarding *Paragraph 14*, on ensuring universal access by 2030, we believe that governments should look not only at deploying infrastructure – specifically and most importantly the deployment of universal broadband

¹⁴ Keystones to foster inclusive knowledge societies. Access to Information and knowledge, Freedom of Expression, Privacy and Ethics on a Global Internet, UNESCO (2015) available at http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/internet_draft_study.pdf

¹⁵ ICTs and Women's Entrepreneurship, UNCTAD available at http://unctad.org/en/Pages/DTL/STI_and ICTs/ICT4D-Women.aspx

¹⁶ See Section C. Challenges during implementation of Action Lines and new challenges that have emerged (paragraph 7) <http://www.itu.int/wsis/implementation/2014/forum/inc/doc/outcome/362828V2E.pdf>

access¹⁷ – but also at forming partnerships with companies, individuals and local leaders, and governments to improve societies through adequate and regionally appropriate deployment and training. There are three hallmarks of universal access: availability, accessibility, and affordability.¹⁸ No policy or partnership will be successful if it neglects one or more of these aspects.

Additionally, the commitments to be made should also reinforce the importance of enabler elements, such as access to information, technology, and knowledge. In this sense, we call attention to the growing movement of public or open access to scientific publications,¹⁹ open educational resources,²⁰ open data, and open standards. A knowledge-empowered community is crucial in achieving access and enjoying the benefits of it.

Comments on Section “ICT for Development”

Since ICTs are recognized as a pillar of modern society, as no other sector seems to work efficiently without them, we are missing from the *third section of the Non-Paper – ICT for Development* - the notion, expressed in *Section A, paragraph 9 of the Geneva Declaration of Principles*, which states that ICTs should be regarded as a tool and not as an end in themselves.

We also believe this is the appropriate section where a clear commitment for the linkage of the WSIS process to its post-2015 agenda and the Sustainable Development Goals (SDGs)²¹ should be made. The *WSIS-SDG Matrix*²² serves as a clear map for this necessary linkage and reinforces the emphasis on ICTs for health, education, training (*Tunis Agenda*), and employment (*Tunis Commitment*).

Comments on Section “Human Rights”

We believe this section is missing a firmer statement that recognizes Human Rights as core to the framework for the interpretation and implementation of the promises that will result from WSIS process and related commitments to post-2015. Additionally, we believe that the words "arbitrary or unlawful interference" in *Paragraph 20* should be removed and aligned with the Necessary and Proportionate Principles²³. This section

¹⁷ The ITU analyses research on the impact of broadband penetration upon developing and developed economies in ‘The Impact of Broadband on the Economy: Research to Date and Policy Issues’, April 2012. Overall the conclusion is that an increase in broadband penetration does lead to an increase in GDP growth. Pages 18 – 28 (Developed Countries), 29 – 57 (Developing Countries), 58 – 60 (Analysis of Case Study Results) refer. Available at http://www.itu.int/ITU-D/treg/broadband/ITU-BB-Reports_Impact-of-Broadband-on-the-Economy.pdf. The correlation between productivity growth and broadband penetration is also observed in countries which are developed. Booz & Co analyzed broadband penetration of 20 OECD countries between 2002 and 2007 in ‘Digital Highways: The Role of Government in 21st-Century Infrastructure’ 2009. The study concluded that countries which were consistently in the top five for broadband penetration had an average annual GDP growth of 3.86 per cent, whilst in the countries with the bottom five broadband penetration, annual GDP growth was 1.67 per cent. Available at http://www.booz.com/media/uploads/Digital_Highways_Role_of_Government.pdf.

¹⁸ Availability: the service is available to inhabited parts of the country through public, community, shared or personal devices; Accessibility: all citizens can use the service, regardless of location, gender, disabilities and other personal characteristics; and Affordability: the service is affordable to all citizens.

¹⁹ Why Open Access? Available at <http://www.sparc.arl.org/resources/open-access/why-oa>

²⁰ UNESCO Open Educational Resources, available at <http://www.unesco.org/new/en/communication-and-information/access-to-knowledge/open-educational-resources/what-is-the-paris-oer-declaration/>

²¹ See WSIS+10 and Beyond: Enhancing Multi Stakeholder Engagement in Internet Governance, CIGI (July 16, 2015) available at <https://www.cigionline.org/articles/wsis10-and-beyond-enhancing-multi-stakeholder-engagement-Internet-governance> (Our testimony at the 2015 U.S. IGF).

²² WSIS -SDG Matrix Linking WSIS Action Lines with Sustainable Development Goals (May, 2015) available at http://www.itu.int/net4/wsis/sdg/Content/wsis-sdg_matrix_document.pdf

²³ Necessary and Proportionate Principles available at <https://en.necessaryandproportionate.org/>

also lacks the need to ensure the development of private stakeholders' self-regulatory practices based, for instance, in documents such as the Guiding Principles on Business and Human Rights.²⁴

Comments on Section “Internet Governance”

We are satisfied with this section, specifically regarding the support it gives to multistakeholder cooperation, enhanced cooperation, and renewal of the IGF's mandate. However, we would like to see the full implementation of the recommendations made in the report of the CSTD working group on improvements to the Internet Governance Forum. Additionally, we would not only like to see a clearer commitment of UN members to governance frameworks that are open, inclusive, and participatory, but also a commitment from other fora, where core and often binding Internet-related policy discussions are happening. However, there is little transparency in many of the ITU-based negotiations, as well as the negotiation of trade agreements that discuss access to telecommunications and ICTs, including critical resources, free flow of information, intellectual property norms, and enforcement that might directly affect human rights.

Comments on Section “Cyberspace”

We recommend that the title of this section be renamed “Cybersecurity” to adequately reflect the section and avoid confusion. We find that cybersecurity is an issue that still requires clarification in the Non-Paper. This issue has been expressed differently throughout the WSIS outcome documents (from “information security” to “security threats” and “respect for privacy”) and it should be updated to include current concerns. For instance, in the Tunis Agenda, there is a specific mention to “...the continued development of technology and self-regulation measures, best practices, [and] international cooperation” in relation to anti-spam efforts. This language could go further and refer more broadly to international cooperation on cybersecurity best practices. An example of the growing demand for increased multistakeholder cooperation and the development and promotion of best practices on cybersecurity can be seen in the recent submissions to the U.S. National Telecommunications and Information Administration (NTIA) regarding stakeholder engagement on cybersecurity²⁵. We recommend the inclusion of the following point from the WSIS+10 Statement on the Implementation of WSIS Outcomes: “[we further recognize] the need to exchange views on best practices to build confidence and security in the use of ICTs while considering the importance of developing international cooperation among all relevant stakeholders as appropriate.”²⁶

While we support improvement in cooperation for cybersecurity, we ask that concerns about cybersecurity and cybercrime not be used as a means to advance proposals that could stifle free expression, legitimize excessive monitoring and surveillance, or justify filtering content. While there is need for action to address security issues, particularly when they involve transnational cybercrime or acts of cyberwar, any proposals in this regard should be measured and mindful of how they can be interpreted or abused. Additionally, we believe that the statement, “the security and stability of the Internet must be maintained,”²⁷ from the Tunis Agenda, is of vital importance in this section.

Comments on Section “Follow-up and Review”

²⁴ 2015 Forum on Business and Human Rights <http://www.ohchr.org/EN/Issues/Business/Forum/Pages/2015ForumBHR.aspx>

²⁵ Comments on Stakeholder Engagement on Cybersecurity in the Digital Ecosystem (June 1, 2015) available at <http://www.ntia.doc.gov/federal-register-notice/2015/comments-stakeholder-engagement-cybersecurity-digital-ecosystem>

²⁶ See Section C. Challenges during implementation of Action Lines and new challenges that have emerged (paragraph 15) <http://www.itu.int/wsis/implementation/2014/forum/inc/doc/outcome/362828V2E.pdf>

²⁷ See Section C paragraph 57 of Tunis Agenda (2005) https://www.itu.int/wsis/outcome/booklet/tunis-agenda_C.html

Regarding the last section of the *Non-Paper, Follow-up and Review*, we find that this section misses some core next steps to ensure meaningful progress on the post-2015 implementation of the WSIS outcomes.

First, by the end of 2015, countries should commit to prevent technical and legal fragmentation of the Internet and other digital technologies, by fostering technical interoperability and by avoiding policies and laws that impact freedom of expression online or perpetuate prejudice against minorities and vulnerable populations.²⁸

Second, countries should commit to enact policies that enable access to knowledge and support adequate management of intellectual property. Access to much of the Information Society is limited by excessively stringent intellectual property laws, particularly copyright. The situation is worsened by the application of contracts and rights-management technology that, in most cases, eliminates the possibility of the user to exercise the few exceptions and limitations the system still holds. Slowing down or reversing this trend represents a critical challenge for country members if they want to ensure that their populations have access to the resources and knowledge they need to be fully benefit from the Information Society.

Finally, by the end of 2015, countries should:

- commit to funding for the implementation of commitments;
- set a strategy to deploy assessment tools to measure the implementation of those commitments and a process of open consultations to support this assessment;
- create a pool of resources and examples that countries and private stakeholders could build on as locally appropriate in order to achieve the WSIS outcomes; and
- set a series of supporting actions to foster multistakeholder cooperation in the WSIS beyond 2015, including work to further strengthen governance frameworks that are open, inclusive, and participatory at national, regional, and global levels.

Signed by

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²⁸ For instance, we are highly concerned with policies such as 3-strikes (France), administrative prior restraint of expression (South Africa), the disappearance of entire sites with any LGBT related content in Russia, the rigid implementation of the Right to Be Forgotten (or delisted) (Europe), and so many other catalogued by various human rights organizations. Experience with similar censorship regimes shows that the regulations will inevitably be ineffective, have a devastating effect where legitimate expression is concerned, and create barriers for meaningful digital inclusion and local efforts of digital literacy. We note that according to Article 27 of the UDHR “Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits”. This underlines that the right to culture is not only about passive access to cultural, educational etc. resources, but also a right to actively use them as creators and distributors. Countries should look at the next ten years as an opportunity to review policies and laws that might negatively impact the exercise of human rights online and take steps to re-think and change those norms.