

## **Comments from the Association for Progressive Communications on the 4 November 2015 Draft Outcome Document of the United Nations General Assembly's Overall Review of the Implementation of WSIS Outcomes - Submitted on 20 November 2015**

The Association for Progressive Communications (APC), an international network of 70 (47 organisational and 23 individual) members in 46 countries whose goal is to mobilise information and communication technologies (ICTs) for social justice and sustainable development, welcomes the content of the 4 November 2015 draft of the WSIS+10 Review outcome document. We have compiled the following proposals which we believe will strengthen the final document.

### **1. General comments**

We congratulate the co-facilitators on the new draft and for releasing it in advance of the IGF. We welcome their participation in the IGF in Joao Pessoa, Brazil, and their willingness to collect input from the IGF community on the draft WSIS+10 outcome document, by attending the main session on WSIS+10 and the civil society-organised Day 0 event on WSIS+10, and by making themselves available to meet with various stakeholders.

The latest draft text is improved in many respects. Many concerns we raised are addressed. First, we are pleased to see that the internet is recognised as a global resource that should be governed in the public interest. Second, under ICT for development, we welcome the addition of cultural diversity and preservation, explicit links to specific aspects of the 2030 Agenda for Sustainable Development - 4b (education and scholarships), 5b (women's empowerment), 9c (infrastructure and access), and 17.8 (technology bank and capacity-building), and stronger language on gender equality, including renewed commitment to ensuring women's full participation in decision-making processes related to ICTs. We are also pleased to see the important addition of proposed solutions to address the digital divide, such as infrastructure sharing models, efficient allocation of spectrum, publicly-funded national backbones, and community-owned and managed last-mile infrastructure. Third, we welcome the fact that there is a standalone section on human rights in the new draft, which includes stronger language on surveillance and a new reference to the need to protect bloggers, journalists, and civil society space. Fourth, we are pleased to see protection of the principle of network neutrality in the internet governance section. While we are happy to see the call for a 10-year renewal of the IGF's mandate we believe that a 15-year renewal would have been better; both in terms of integration with the Sustainable Development Goals and 2030 Agenda for Sustainable Development, and in order to achieve the goal of a strengthened IGF.

Finally, in relation to the call for a High Level meeting on the Information Society in 2025 we

are pleased to see the strong linkage with the Sustainable Development agenda and process.

However, we want to emphasise the need for the High Level Meeting to be inclusive and open, and ensure meaningful participation from all stakeholders in all phases and around all aspects of the process. One of the reasons for the success of the WSIS was the fact that the UN agencies involved in organising it (primarily the ITU, UNESCO, UNCTAD and UNDP) were able to develop modalities for participation in the process in response to stakeholder interest and needs. We recommend a similar process for the post-2015 period.

We believe the draft can still be strengthened in a number of respects.

- First, *we would like to see stronger reference to human rights*, including the legally binding core international human rights instruments. The outcome document should recognise the full range of human rights, including economic, social and cultural rights that must be realised to achieve a people-centred, inclusive, development-oriented Information Society. It should also recognise that restrictions to human rights online must be in accordance with international human rights law and note the responsibility of companies to respect human rights and provide remedies in accordance with the UN Principles on Business and Human Rights.
- Second, *we are concerned that the emphasis on multilateral approaches to internet governance* in a number of places in the text could serve to undermine the emphasis in the Geneva Declaration on “new forms of solidarity, partnership and cooperation among governments and other stakeholders” (para 17). The zero draft had stronger language on open and inclusive approaches to internet governance, which we would like to see restored. In this regard we urge that the proposed working group on enhanced cooperation include the meaningful participation of nongovernmental stakeholders in line with the Tunis Agenda, which calls for all stakeholders to be involved in the process towards enhanced cooperation. Internet governance processes, including enhanced cooperation, should be participative, inclusive, transparent and democratic, with the full involvement of governments, the private sector, civil society, the technical community and international organisations. An intergovernmental working group without extensive input from all stakeholders is not sufficient or legitimate in our view.
- Third, *we find the section on “Building Confidence and Security in the use of ICTs” to be unbalanced*. It advances a national security and cyberterrorism framing, which can be incompatible with human rights. This framing can be used to silence critical voices and those who do not conform to political, cultural, social norms. There is a need for the involvement of all stakeholders in efforts to build trust, confidence and security in the use of ICTs, through open, inclusive and transparent processes. Trust should be about trust of users in the technology that they are using. Pitting human rights against

security is a false dichotomy. Additionally, while we welcome the recognition of the threat that women and girls face regarding online violence and harassment, we consider the 'cyber' framing to be very problematic because it places it within a security discourse - which frames women as victims – when it should be a human rights issue, linked to women's right to freedom of expression, participation and in public life, and other rights.

## 2. Specific proposed amendments to the text

<b>Proposed amendments</b> <b>[New text proposed]</b> <b>[Text we are proposing deletion]</b>	<b>References and rationale for proposals where relevant</b>
<i>Preamble</i>	
<p>5. We reaffirm our common desire and commitment to the WSIS vision to build a people-centred, inclusive and development-oriented Information Society, where everyone can create, access, utilize and share information and knowledge, enabling individuals, communities and peoples to achieve their full potential in promoting their sustainable development and improving their quality of life, premised on the purposes and principles of the Charter of the United Nations [<del>including sovereign equality, territorial integrity, rule of law, and non-interference in internal affairs of other states,</del>] and respecting fully and upholding the Universal Declaration of Human Rights [<del>the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights</del>].</p>	<p>The concepts included here are covered by the reference to the UN Charter. We do not see the need to emphasise these particular aspects of the UN Charter and not others.</p>
<p>12. We recognize that the Internet is a global resource that must be managed in an open and inclusive manner, which serves the public interest. We further reaffirm that the international management of the Internet</p>	<p>While this text is from the Tunis Agenda we believe it does not recognise the progress that has been made since 2005 in developing inclusive mechanisms for managing the internet. These models need to be improved,</p>

<p>should be <b>[multilateral]</b>, transparent and democratic, with the full involvement governments, private sector, civil society international organizations.</p>	<p>but we believe that there is no longer consensus that they should be multilateral.</p>
<p><i>2. Human Rights</i></p>	
<p>38bis <b>[We note with concern the growing incidence of technology-related violence against women and encourage the development of mechanisms to prevent and respond to these threats, that are consistent with human rights.]</b></p>	<p>This text is proposed to replace the last sentence of paragraph 46. We propose moving this text to the human rights section as technology-related violence against women is a human rights issue, relating to women's rights to freedom of expression, participation in public life, and right to security, and as such should be addressed in a matter consistent with international human rights standards.</p>
<p>42. We emphasise that no person shall be subjected subject to arbitrary or unlawful interference with his or her privacy, family, home, or correspondence, as recognized under <del>[consistent with countries' applicable obligations under]</del> international human rights law, <del>[as recognized]</del> <b>[and]</b> in General Assembly resolution 69/166. We call upon all States to review their procedures, practices and legislation regarding the surveillance of communications, as well as their interception and collection of personal data, including mass surveillance, with a view to upholding the right to privacy by ensuring the full and effective implementation of all their obligations under international human rights law.</p>	<p>Edits to reflect existing international HR norms and obligations. We suggest deleting "applicable obligations" in the current text, as it would set a dangerous precedent to allow the international rights regime to be qualified in this way in a General Assembly agreement. Anything that deviates from or appears to add to these agreed limitations could have wider implications. The current text could be read in contradiction w/ para 39, on the applications of rights online and offline.</p>
<p>42bis <b>[We recognise the role that anonymity and encryption can play as enablers of privacy protection and freedom of expression].</b></p>	<p>Source: Outcome Document of UNESCO's "CONNECTing the Dots: Options for Future Action" Conference (38 C/53)</p>
<p><i>3. Building Confidence and Security in the use</i></p>	

<p><i>of ICTs</i></p> <p>45. We welcome the wide variety of initiatives to achieve this component of the WSIS vision, and we encourage all stakeholders to participate, including in the work of ITU, the United Nations Commission on Crime Prevention and Criminal Justice, the United Nations Office on Drugs and Crime, the Open-Ended Intergovernmental Expert Group on Cybercrime, and the Group of Government Experts on Developments in the Field of Information and Telecommunications in the Context of International Security. Computer Security Incident Response Teams have been established around the world and there is growing collaboration between them at both regional and local levels. We also take note of the Budapest Convention on Cybercrime. We recognise the need for governments, <del>[which have responsibility for national security and the personal safety of their citizens,]</del> to play a <del>[leading]</del> role in ensuring cybersecurity, alongside other stakeholders in their respective roles and responsibilities, in a manner consistent with human rights.</p> <p>46. We reiterate the importance of cyber-ethics <del>[rooted in human rights for] [in]</del> establishing a safe, secure, tolerant and reliable cyberspace and strengthening the role of ICTs as enablers of development, as emphasised in paragraph 43 of the Tunis Agenda and mentioned under the Ethical Dimensions of the Information Society of the Geneva Declaration of Principles and Plan of Action. We recognise the need for special emphasis on the protection and empowerment of children online, incorporating regulatory, self-regulatory, and other effective policies</p>	<p>The national security and state-led framing, is concerning from a human rights perspective as this approach is used in some circumstances to curtail rights and silence critical voices and those who do not conform to political, cultural, and social norms. The fact that governments have a responsibility for national security is self evident and does not need repeating here.</p> <p>Suggest replacing the deleted text with 38bis. Human rights must be the basis for establishing safe, secure, tolerant and reliable cyberspace. See section 5 of UNESCO CONNECTing the Dots: Options for Future Action document.</p>
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<p>and frameworks. In this regard, governments and other stakeholders should work together to help all children to enjoy the benefits of ICTs in a safe and secure environment. [<del><b>The growing threats of cyber-violence and online abuse, which are particularly aimed at women and girls, must also be comprehensively addressed.</b></del>]</p>	
<p>48. [<del>However, w</del>][We are concerned about certain and growing uses of ICTs that threaten security and development benefits, including [<del>terrorism and</del>] cybercrime, and we acknowledge concerns that existing legal and enforcement frameworks may not have caught up with the speed of technological change and application. Furthermore, we note concerns that attacks against States, companies, other entities, and individuals are now being undertaken through digital means. We reiterate our belief that a global culture of cybersecurity needs to be promoted, developed, and implemented in cooperation with all stakeholders and international expert bodies in order to foster trust and security in the Information Society. [<b>We recognise the importance of privacy-enhancing technology in building trust, confidence and security in the use of ICTs.</b>]</p>	<p>An important aspect of building a global culture of cybersecurity, including trust, confidence, and security in the use of ICTs, is increasing the use of privacy-enhancing technology.</p>
<p>4. <i>Internet Governance</i></p>	
<p>50. We reaffirm that the governance of the Internet as a global resource should be [<b>open, inclusive,</b>] multilateral, transparent and democratic, with the full involvement of all stakeholders. We reiterate the working definition of Internet governance set out in paragraph 34 of the Tunis Agenda, as 'the development and application by governments, the private sector and civil society, in their</p>	

<p>respective roles, of shared principles, norms, rules, decision making procedures and programmes that shape the evolution and use of the Internet’.</p>	
<p>4.1 <i>Enhanced Cooperation</i></p>	
<p>We note, however, persistent concerns by some Member States that full implementation of enhanced cooperation, as envisioned by Tunis, has not been achieved. We call for strengthening enhanced cooperation. We further request the Secretary-General to provide a report to the 71<sup>st</sup> session of the General Assembly on implementation to date and options to hasten progress on enhanced cooperation, including <b>[an intergovernmental] [a multistakeholder] working group [with participation and input from all stakeholders]</b>. The report may form the basis for discussion within the framework of a special session of the General Assembly on enhanced cooperation <b>[with participation and input from all stakeholders. These efforts should be made to link these discussions and other such discussions related to internet-related public policy matters to the IGF.]</b></p>	
<p>5. Follow-up and Review</p>	
<p>61. We call for increased efforts to improve the extent of data collection and analysis, including <b>[gender disaggregated data,]</b> quality of connectivity and the impact of ICTs on development, based on international standards and definitions; the inclusion of ICT statistics in national strategies for the development of statistics and in regional statistical work programmes, and the strengthening of local statistical capacity by assessing capacity needs and</p>	

delivering targeted training on ICT statistics. The activities of the Partnership on Measuring ICT for Development have made a valuable contribution to data gathering and dissemination and should be continued.	
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Alternatives - Canada

Arid Lands Information Network (ALIN) - Kenya

Asociación Trinidad Comunicación, Cultura y Desarrollo / Radio Viva -  
Paraguay

Associació Pangea; Coordinadora Comunicació per a la Cooperació - Spain

AZUR Développement - Congo, Republic of the

Bangladesh Friendship Education Society (BFES) - Bangladesh

BlueLink Information Network - Bulgaria

Bytes for All, Bangladesh - Bangladesh

Bytes for All, Pakistan - Pakistan

Centre for Information Technology and Development (CITAD) - Nigeria

Collaboration on International ICT Policy for East and Southern Africa  
(CIPESA) - Uganda

Colnodo - Colombia

Community Education Computer Society (CECS) - South Africa

Computer Aid International - United Kingdom

Cooperativa Sulá Batsú - Costa Rica

Derechos Digitales - Chile

Digital Empowerment Foundation (DEF) - India

EngageMedia - Australia

eQualit.ie - Canada

FANTSUAM FOUNDATION - Nigeria

Foundation for Media Alternatives (FMA) - Philippines

Fundación Escuela Latinoamericana de Redes (EsLaRed) - Venezuela

Fundación REDES para el desarrollo sostenible - Bolivia

GreenNet - United Kingdom

Institute for Global Communications (IGC) - United States

Instituto DEMOS - Guatemala  
Japan Computer Access for Empowerment (JCAFE) - Japan  
JCA-NET - Japan  
KictaNet - Kenya  
Korean Progressive Network Jinbonet - South Korea  
LaborNet - United States  
May First/People Link - United States  
Media Matters for Democracy (MMfD) - Pakistan  
Metamorphosis Foundation - Macedonia  
Nodo TAU - Argentina  
Núcleo de Pesquisas, Estudos e Formação (Nupef) - Brazil  
OneWorld Platform for Southeast Europe Foundation (OWPSEE) - Bosnia and Herzegovina  
Open Institute - Cambodia  
Protege QV - Cameroon  
Society for Promotion of Alternative Computing and Employment (SPACE) - India  
Southern African NGO Network (SANGONeT) - South Africa  
Strawberrynet Foundation - Romania  
Thai Netizen Network - Thailand  
VOICE - Bangladesh  
Web Networks - Canada  
Women of Uganda Network (WOUGNET) - Uganda  
Women'sNet - South Africa