

**UNITED NATIONS COMMISSION ON SCIENCE AND TECHNOLOGY
FOR DEVELOPMENT (CSTD)**

**Contribution to the CSTD ten-year review of the implementation of WSIS
outcomes**

Submitted by

ASSOCIATION FOR PROPER INTERNET GOVERNANCE

DISCLAIMER: The views presented here are the contributors' and do not necessarily reflect the views and position of the United Nations or the United Nations Conference on Trade and Development.

**Input by the Association for Proper Internet Governance
to the CSTD Ten-year WSIS Review
14 June 2014**

The Association for Proper Internet Governance (APIG)¹ thanks the UN Commission on Science and Technology for Development (CSTD) for its invitation to provide written inputs for its Ten-year Review of WSIS. In response, we provide the following comments.

At the WSIS+10 High Level Event of 11 June 2014, a Statement and a Vision were agreed, but some parts of those documents were difficult to negotiate and the agreed text is, from our point of view, rather weak with respect to certain specific points.

It may be productive to reopen discussions of certain specific items, recognizing that they are delicate and that significant time might be needed to reach full consensus. In this spirit, we indicate language that we would have preferred to see adopted.

APIG would have preferred that paragraph 2 of the Preambles of both the Statement and the Vision read as follows in order to recognize recent UN Resolutions that highlight the relevance of specific human rights in the context of the evolution of ICTs since 2005, recognizing the well-known legal principle that offline rights apply equally online (our additions are shown as revision marks):

We reaffirm the human rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights and relevant international human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights; and we also reaffirm paragraphs 3, 4, 5 and 18 of the Geneva Declaration; and we reaffirm the human rights mentioned in relevant UN Resolutions, including, but not limited to:

- [A/RES/68/147. Rights of the child](#)
- [A/RES/68/163. The safety of journalists and the issue of impunity](#)
- [A/RES/68/167. The right to privacy in the digital age](#)
- [A/RES/68/227. Women in development](#)
- [A/HRC/20/8. The promotion, protection and enjoyment of human rights on the Internet](#)
- [A/HRC/RES/21/24. Human rights and indigenous People](#)
- [A/HRC/RES/22/6. Protecting human rights defenders](#)
- [A/HRC/RES/23/2. The role of freedom of opinion and expression in women's empowerment](#)
- [A/HRC/RES/23/3. Enhancement of international cooperation in the field of human rights](#)
- [A/HRC/RES /23/10. Cultural rights and cultural diversity](#)
- [A/HRC/RES/24/5. The rights to freedom of peaceful assembly and of association](#)
- [A/HRC/RES/25/11. Question of the realization in all countries of economic, social and cultural rights](#)

APIG would have preferred to include in Action Line C2 (Information and Communication Infrastructure) the following item, which is based on text agreed at the G20 St. Petersburg meeting²:

e) There is a need to identify the main difficulties that the digital economy poses for the application of existing international tax rules and develop detailed options to address these difficulties.

APIG would have preferred that the WSIS+10 recognize the dysfunctional nature of the current copyright regime for what concerns online issues and that an explicit call be included to reform that unworkable

¹ <http://www.apig.ch>

² G20 Leaders, "Tax Annex to the St. Petersburg Declaration", G20 (6 September 2013), Annex, Action 1
<http://www.g20.org/news/20130906/782776427.html>

regime³. In particular, APIG would have preferred that item (f) of action line C6 (Enabling Environment) read as follows (changes with respect to the agreed version are shown as revision marks):

f) Foster an intellectual property rights framework that balances the interests of creators, implementers and users, by drastically reducing the length of copyright, by legalizing non-commercial downloads of copyright material, and by restricting what can be patented.

APIG would have preferred that the WSIS+10 explicitly call for the globalization of the IANA function, by adding the following:

In section B (Priority areas) of the Vision, adding 37:

37) Accelerating the globalization of ICANN and IANA functions.

In action line C1 of the Vision, adding (f):

(f) Agree a formal framework that provides for all governments to participate, on an equal footing, in the governance and supervision of the ICANN and IANA functions, and that provides for effective supervision and accountability of these functions in accordance with paragraphs 29, 35, 36, 61 and 69 of the Tunis Agenda.

APIG would have preferred that (b) and (d) of C10 (Ethical Dimensions of the Information Society) read as follows (changes with respect to the agreed version are shown as revision marks):

(b) Promote respect of the fundamental ethical values in the use of ICTs and prevent their abusive usage, and in particular prevent mass surveillance.

(d) Continue to enhance the protection of privacy and personal data. Recognize that, in the absence of the right to privacy, there can be no true freedom of expression and opinion, and therefore no effective democracy. Any violations of privacy and any restrictions on the protection of personal data must be held to be necessary and proportionate by an independent and impartial judge.

See 11 of our submission⁴ to the open consultation conducted by the ITU Council Working Group on International Internet-related Public Policy Issues (CWG-Internet) and recall that, as stated by the President of Brazil, Dilma Rousseff, in her speech at the UN General Assembly on 24 September 2013:

“In the absence of the right to privacy, there can be no true freedom of expression and opinion, and therefore no effective democracy.”

APIG would prefer that C5 (Security) start with a new bullet (a) (in addition to, not replacing the current bullet (a)), as follows:

C5. Building confidence and security in the use of ICTs

a) Continue to promote cooperation among governments at the United Nations and other appropriate intergovernmental forums, and with all stakeholders at other appropriate forums, to enhance user confidence, build trust, and protect both data and network integrity; consider existing and potential threats to ICTs, in particular threats created by weakening or compromising encryption standards; and address other information security (this being understood as defending information from unauthorized access, use, disclosure, disruption, modification, perusal, inspection, recording or destruction) and network security issues, in particular mass surveillance.

a^{bis}) Address cybersecurity and cybercrime in appropriate forums.

It should be noted that the text in parenthesis after “information security” was not present in the 2003 version of this text, found in 12(a) of the Geneva Plan of Action. It has been added in order to make it clear that the term “information security” is used in its ordinary sense⁵, and not in other senses.

³ In this context, see 7.3 of <http://www.itu.int/en/Lists/CWGContributionmar2014/Attachments/25//CWG-March.pdf> and its references.

⁴ <http://www.itu.int/en/Lists/CWGContributionmar2014/Attachments/25//CWG-March.pdf>

APIG would prefer that C9 (Media) read as follows:

C9. Media

Media will benefit from the broader and expanded role of ICTs that can enhance media's contribution to the development goals of the post-2015 Sustainable Development Agenda.

The principles of freedom of expression and the free flow of information, ideas and knowledge, and the protection of privacy, are essential for the information and knowledge societies and beneficial to development, recognizing that the same rights that people have offline must also be protected online.

1. Develop and update national ICT-Media legislation that guarantees the independence, and plurality of the media according to international standards as well as the domestic needs.
2. Continue to take appropriate measures — consistent with freedom of expression— to combat media content that is both illegal and harmful. Any such measures must be held to be necessary and proportionate by an independent and impartial judge.
3. Continue to encourage traditional media to bridge the knowledge divide and to facilitate the flow of cultural content, particularly in rural areas.
4. Ensure the safety of all journalists and media workers, including social media producers and bloggers, and their sources (in particular whistle-blowers) and facilitate the implementation of the UN Plan of action on the safety of journalists and the issue of impunity.
5. Ensure the privacy of all media and the secrecy all communications, including E-Mail. Any violations of privacy or secrecy shall take place only if they are held to be necessary and proportionate by an independent and impartial judge. The privacy of all media and the secrecy of all communications shall be respected in accordance with the national laws of all concerned parties.

It should be noted that the text proposed for 2 clarifies the text of 24 (c) of the Geneva Plan of Action. That text could be misunderstood to imply that one could combat content that is harmful but not illegal. But such is not the case, since content can only be restricted if it is illegal, pursuant to article 29(2) of the Universal Declaration of Human Rights and article 19(3) of the International Covenant on Civil and Political Rights. That is, the Geneva Plan of Action already enshrined the principle that there should be fewer restrictions on online freedom of speech than on offline freedom of speech, because the online content can be restricted only if it is “illegal and harmful”. In this respect, see 7.1 of our submission⁵ to the open consultation conducted by the ITU Council Working Group on International Internet-related Public Policy Issues (CWG-Internet).

Regarding 5 above, see 11 of our cited submission to CWG-Internet.

We have omitted an item regarding gender equality in action line C9 because APIG is of the view that gender equality applies to all action lines. Thus gender equality can be addressed as a new action line, but that it might be preferable to address it as a chapeau before action line C1, given that gender equality applies to all action line. We propose the following for this chapeau (the language is that proposed by UN Women for a potential new action line, slightly modified since it is not proposed here as an action line):

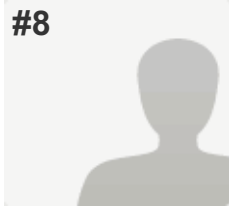
We commit to promote progress in implementing gender commitments enshrined in the WSIS outcome documents and forward-looking recommendations by pursuing practical and joint measures to advance women's empowerment within the Information Society. The goal is to realize women's meaningful access to ICTs and full integration of women's needs and perspectives, and their equal participation as active agents, innovators and decision-makers. Also critical are connecting and heightening understanding of online and offline realities and addressing underlying factors that hinder women's engagement in the Information society. Finally, we seek to develop more coherent approaches, as well as increase investments, attention and accountability measures.

⁵ http://en.wikipedia.org/wiki/Information_security

⁶ <http://www.itu.int/en/Lists/CWGContributionmar2014/Attachments/25//CWG-March.pdf>

1. *Gender Analysis*: Promote the use of “gender analysis” and associated tools and methodologies in the development of national, regional and related global frameworks, strategies and policies and their implementation, as well as better connect with women’s empowerment communities and frameworks.
 2. *Holistic Approaches and Structural Issues*: Address underlying women’s empowerment issues in the information society, such as gender stereotypes, specific or pronounced threats to women, such as online violence, as well as provide analysis and actionable recommendations on gender issues that cut across action lines.
 3. *Support to Action Lines and Stakeholders*: Work with and across Action Lines and specific stakeholder groups (e.g. private sector) to accelerate integration of gender equality within their remits through identification of overarching issues, programmatic opportunities, requisite investments, policy interventions, case studies and learning, and promote participation of women and gender equality stakeholders.
 4. *Data and Monitoring Progress*: Prepare scorecards on Action Line and National level reporting on women’s empowerment. Support and promote the work of the Partnership on the Measurement of the Information Society Working Group on Gender.
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#8

**COMPLETE****Collector:** Website Collector 1 (Website Survey)**Started:** Tuesday, August 05, 2014 9:08:27 AM**Last Modified:** Tuesday, August 05, 2014 9:12:06 AM**Time Spent:** 00:03:39**IP Address:** 89.217.24.100

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Q1: Salutation:

Mr.

Q2: First Name, Surname:

Richard Hill

Q3: Organisation:

Association for Proper Internet Governance

Q4: Country:

Switzerland

Q6: Which stakeholder category do you belong to?

Civil Society

Q7: To what extent, in your experience, has the "people-centred, inclusive and development-oriented Information Society", envisaged in the opening paragraph of the WSIS Geneva Declaration of Principles, developed in the ten years since WSIS?

The WSIS+10 Statement on the Implementation of WSIS Outcomes of the WSIS+10 High Level Event provides an adequate summary of how the Information Society has developed in the ten years since WSIS.

Q8: How far do you consider the implementation of specific WSIS outcomes to have been achieved?

There has been no progress whatsoever on the implementation of enhanced cooperation (paragraph 69 of the Tunis Agenda).

Nor has there been progress with respect to the three priority areas identified by the Working Group on Internet Governance:

1. Ending the privileged role of the US government with respect to Internet governance.
2. Addressing the high cost of Internet connectivity for developing countries.
3. Addressing the lack of security of the Internet, which leads to spam, cybercrime, and mass surveillance.

Q9: How has the implementation of WSIS outcomes contributed towards the development of a "people-centred, inclusive and development-oriented Information Society"?

See the reply to question 7.

Q10: What are the challenges to the implementation of WSIS outcomes? What are the challenges that have inhibited the emergence of a "people-centred, inclusive and development-oriented Information Society"?

See the reply to question 8. The main challenge is how to prevent the US and its private companies from using their dominant position to further the geo-economic and geo-political goals of the USA; or, more bluntly, how to prevent the US from continuing to use the Internet to practice imperialism.

Q11: How are these challenges being addressed? What approaches have proved to be effective in your experience?

Some civil society organizations have recognized the challenges and have proposed steps to take. See in particular:

http://justnetcoalition.org/sites/default/files/Principles_towards_a_just_and_equitable_Internet_for_all.pdf

http://justnetcoalition.org/sites/default/files/Roadmap_for_Democratising_Global_Governance_of_the_Internet.pdf

<http://www.justnetcoalition.org/Statement-to-the-BRICS-Summit-in-Fortaleza-Brazil>

Q12: What do you consider the most important emerging trends in technology and other aspects of ICTs which have affected implementation of WSIS outcomes since the Summit? What has been their impact?

The most important emerging trend is the increasing threat to the free and open Internet. Indeed the free and open Internet is threatened by actions and inactions of governments and actions of private companies. Some governments take actions to restrict freedom of speech and to violate personal privacy. Some governments fail to take actions to control the abuse of dominant market power by private companies. Some private companies abuse their dominant power to impose unfair conditions on customers (in particular by obtaining personal information that is commercially valuable in exchange for services that are much less valuable than the information) and to create walled gardens that reduce customer choice.

The USA in particular uses its dominant position to pursue its geo-political and geo-economic goals, often to the detriment of the interests of citizens of other states.

For more details, see:

<http://www.apig.ch/WSIS%20APIG%20statement.doc>

In particular, mass surveillance is not only a violation of the right to privacy: it also poses a grave threat to freedom of speech and other human rights.

Q13: What should be the priorities for stakeholders seeking to achieve WSIS outcomes and progress towards the Information Society, taking into account emerging trends?

The WSIS+10 Vision for WSIS Beyond 2015 of the WSIS+10 High Level Event provides adequate summary of the priorities and actions to be taken to progress towards the Information Society, except for what concerns Internet governance and mass surveillance.

For what concerns Internet governance, please see the documents cited in question 11 and also:

http://www.senat.fr/rap/r13-696-1/r13-696-1_mono.html

http://www.hldataprotection.com/files/2013/06/Taxation_Digital_Economy.pdf

<http://justnetcoalition.org/comments-iana-transition-and-icann-accountability>

Mass surveillance must be ended. A concrete proposal for doing that is found in section 11 of the paper at:

<http://www.apig.ch/CWG-March.doc>

Questionnaire for the CSTD's ten year review of WSIS implementation

Q14: What role should information and communications play in the implementation of the post-2015 development agenda?

ICT will play a critical role. We must ensure that all people have access and the means to make effective use of ICTs. Universal access should include capacity building and availability of all basic digital functionalities and services. ICT architecture should be community-led, and designed to decentralize power rather than centralise it. A major part of content development should be local.

See also:

http://justnetcoalition.org/sites/default/files/Principles_towards_a_just_and_equitable_Internet_for_all.pdf

Q15: Please add any other comments that you wish to make on the subject of the review that you believe would be helpful.

No other comments.

Q16: We would also welcome any documents, reports, etc. that you can forward which you think will provide useful evidence for the review. Please send these to cstd-wsis10@unctad.org. It would be helpful if you could list these in this box, together with any URL which enables access to them on the World Wide Web.

The following documents have already been submitted by E-Mail:

http://justnetcoalition.org/sites/default/files/Principles_towards_a_just_and_equitable_Internet_for_all.pdf

http://justnetcoalition.org/sites/default/files/Roadmap_for_Democratising_Global_Governance_of_the_Internet.pdf

http://www.senat.fr/rap/r13-696-1/r13-696-1_mono.html

http://www.hldataprotection.com/files/2013/06/Taxation_Digital_Economy.pdf

In addition, please consider the following:

<http://www.justnetcoalition.org/Statement-to-the-BRICS-Summit-in-Fortaleza-Brazil>

<http://www.apig.ch/WSIS%20APIG%20statement.doc>

<http://www.apig.ch/CWG-March.doc>

<http://justnetcoalition.org/comments-iana-transition-and-icann-accountability>