



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

Official Form for Comments on the Non-paper

A. Your Information

Title: Pattaya Key Messages – Voices from the Asia Pacific

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B. Formal Input

From 3 to 5 September, 2015, a group of 38 stakeholders from 29 organisations in 15 countries, whose scope of work relates to the information society in the Asia-Pacific region, met in Pattaya Thailand. The meeting originally aimed to gather views on the non-paper, drafted by the UN appointed co-facilitators of the WSIS+10 Review process, scheduled for public release by the end of August. However, the non-paper was not available at the time of the meeting. The group therefore decided to instead shift its focus to discussions on three key areas with regard to the WSIS+10 Review: development, human rights, and Internet governance. The group then proceeded to summarise the most important points that emerged from its discussions in a set of key messages: the Pattaya Key Messages.

Seeing that the Pattaya Key Messages have close relevance for the issues addressed in the non-paper, we reproduce them in full below as our comment on the non-paper. As they reflect the considered views of a wide range of Asia-Pacific non-government stakeholders on the issues and process of the WSIS+10 Review, we sincerely hope that the Pattaya Key Messages will receive the co-facilitators’ and government negotiators’ full attention.

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

We have been delighted to note that the non-paper has significant areas of agreement and overlap with the Pattaya Key Messages. However, there are notable areas of divergence as well. Based on our reading of the non-paper, we would like to draw your attention in particular to the following points:

Regarding the digital divide:

While the non-paper recognises the risk that the digital divide will widen as technology and services evolve, it deserves greater emphasis in the zero-draft that those who do not have access to digital technologies in our increasingly connected world are put at risk of even greater exclusion and marginalisation.

The zero-draft should also put forward a range of efforts that can mitigate or erase any potential harm that might result from digital policies. This includes focusing efforts to bridge the digital divide specifically on connecting the most marginalised (rather than merely on increasing the number of people connected more generally), and ensuring that the specific needs of the marginalised are fully taken into account in all digital policies. It also requires recognition that access to the Internet and ICTs is not a binary proposition but should be understood as a spectrum and that connectivity is not sufficient, but that quality of service is essential to make the WSIS vision a reality. Finally, acknowledgement is required that public funds continue to be crucial to ensuring access for all. A more systematic gathering of data as well as a common effort to formulate key concepts are key to the success of all such efforts.

We refer to paragraphs 1 to 4 and 8 of the Pattaya Key Messages in particular for concrete language on all these issues.

Regarding ICTs for Development:

While the non-paper recognises the potential of ICTs to provide new solutions for development challenges, especially in developing countries and particularly the least developed countries, it is important that the zero-draft explicitly recognises that a rights-based approach to development is needed. This means acknowledging access to knowledge and the right to information as positive rights that enable development. It also entails recognising the central importance of digital literacy in enabling citizen participation in all spheres and of ensuring far greater accountability of the private sector to its users.

While the non-paper prioritises the critical role that ICT play in enabling resource efficiency, it also deserves recognition that ICTs can be leveraged for, inter alia, regional cooperation in climate science, aid coordination, mitigation and adaptation.

We refer to paragraphs 5, 6 and 7 of the Pattaya Key Messages for concrete language on these issues.

We commend the non-paper for the emphasis it puts on the links between the WSIS and the SDGs, and stress that systematic and rigorous evidence on how ICTs can contribute to the SDGs should inform the review process throughout.

Regarding human rights:

We commend the non-paper for reaffirming that the same rights people have offline must also be protected online. While the Internet has become a critical enabler for the exercise of a full range of human rights, it is also used increasingly to perpetrate human rights violations. For that reason, we believe that it is essential for the zero-draft to go into far more depth on a range of human rights issues.

In particular, we believe that far stronger language is required regarding the need to respect the right to freedom of expression, which intersects with and is central to the enjoyment of all human rights, as well as with regard to the right to privacy, including regarding violations of this right by companies. In addition, we believe that the zero-draft should

- explicitly reference the need to ensure data protection along with the right to privacy;
- recognise the right to control and manage one's identity online, including the right to anonymity;
- recognise sexual expression online as a critical aspect of the right to freedom of expression that must be protected;
- recognise that technology-enabled violence against women is growing and put forward concrete proposals for interventions that promote human rights for all in cyberspace and ensure that the potential of ICTs for empowerment can be harnessed by all.

We recommend that the detailed language of paragraphs 12, 19, 21, 23 and 24 of the Pattaya Key Messages on each of these issues be added to the zero-draft.

Finally, we would like to highlight that governments need to pro-actively consider multidimensional strategies towards ensuring a positive environment for the exercise of digital rights, including capacity-building initiatives. We refer to paragraphs 16 and 17 of the Pattaya Key Messages for detailed proposals and language on this issue.

Regarding Internet governance:

While we commend the non-paper for agreeing that the governance of the internet should be open, inclusive and transparent - and referring to the working definition of Internet governance included in paragraph 34 of the Tunis Agenda as "the development and application by governments, the private sector and civil society in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the Internet..." - it does not recognise sufficiently the importance of multistakeholder approaches in Internet governance. Similarly, while the non-paper importantly recognises the importance of increased participation in Internet governance, especially of least developed countries, landlocked developing countries and Small Island Developing States, it does not provide sufficient guidance on how this goal of a more diverse participation will be achieved.

It deserves to be recognised explicitly in the zero-draft that the WSIS process has illustrated that multistakeholder approaches are an effective and preferred model for Internet governance, but also that the multistakeholder model is not static and has had different applications in different contexts. In addition, we recommend that the zero-draft stresses and significantly expands on the efforts needed to ensure full and meaningful participation of all stakeholders and all regions and countries in Internet governance. The zero-draft should in particular address issues of transparency, accountability, inclusiveness, capacity building and financial resources in relation to Internet governance.

We refer to paragraphs 27 to 32 of the Pattaya Key Messages for detailed, concrete proposals and language on all of these important issues.

Regarding cyberspace:

While the non-paper recognises the growing importance of cyberspace and reaffirms the crucial role of confidence and security building initiatives in protecting cyberspace, it deserves far more emphasis in the zero-draft that efforts to protect or secure cyberspace in the name of national security should not be used as a pretext to violate human rights. Good cybersecurity practices should allow states to protect their

national security while upholding human rights - including, but not limited to, freedom of expression and the free flow of information and ideas as well as the right to privacy. In addition, cooperation at the international level to protect the integrity and security of the Internet should recognise that the Internet is transnational and therefore national actions can have major unintended consequences, including on the rights of users around the world.

We refer to paragraphs 18, 20 and 22 of the Pattaya Key Messages for specific, additional language on these issues.

Follow-up and Review:

Finally, we note that the non-paper recognises the importance of frameworks such as the Addis Ababa Action Agenda and the 2030 Agenda for Sustainable Development with regard to ICT policy and investment. The zero-draft should in addition highlight that the operation of such frameworks and financial mechanisms should be informed by the review and by an understanding of the failure of past efforts such as the Digital Solidarity Fund (DSF). A more robust and efficient financial mechanism is urgently needed to meet the challenges of a people-centred, inclusive and development-oriented information society for all.

With these comments in mind, we wish to express our thanks for this opportunity to comment and submit the full text of the Pattaya Key Messages below.

Pattaya Key Messages on the WSIS+10 Review:
Voices from the Asia-Pacific Region

Pattaya, Thailand, 5th September 2015

The United Nations World Summit on the Information Society (WSIS) was a Summit held in two phases, first in 2003 and then in 2005. A formal review of its outcomes, known as the WSIS+10 Review process, is under way for consideration by the United Nations General Assembly in December 2015.

In preparation of the WSIS+10 Review, a consultation meeting convened by the UN was held in New York in July 2015 with limited participation from non-governmental stakeholders (civil society, private sector, technical and academic communities, among others).

As an initial exercise to raise attention to the process and find ways for increasing participation, a group of 38 participants from 29 organisations in 15 countries, whose scope of work relates to the information society in the Asia-Pacific region, met in Pattaya, Thailand, on 3 to 5 September, 2015. This meeting was also open for remote participation, which enabled the involvement of a further 12 individuals.

The meeting originally aimed to gather views on a non-paper drafted by the UN appointed co-facilitators of the WSIS+10 Review process, scheduled for public release by the end of August. However, this non-paper was not available at the time of the meeting. Despite this delay in its public release, the group was able to have fruitful discussions.

The group confirmed the continuing importance of the WSIS vision of a people-centred, development-oriented, and inclusive information society. Through this lens, the meeting started with an analysis of the submissions made by stakeholders as part of a consultation by the UN. The analysis of these

submissions led to discussions on the impact of the WSIS+10 Review process focussed on three key areas: development, human rights and Internet governance.

Participants had lively discussions and engaged proactively during the sessions, and supported by an online collaborative exercise, gathered views on these three issues. The following are highlights of the salient points of our discussions. While they represent collective ideas, they do not necessarily reflect agreement among all participants.

Development

1. Universal, affordable and equitable access is still not a reality for many. In our increasingly connected world, characterised by rapid technology developments, those who do not have access to digital technologies are at increasing risk of exclusion and marginalisation. Gender, age, language, geographic location and accessibility factor into the extent of the digital divide between communities and countries. Those who are particularly vulnerable to exclusion include women, persons with disabilities particularly the vision impaired, people from rural areas and those living in Small Islands and Developing States (SIDS). Digital inclusion is further hampered by limited linguistic and cultural diversity of content and services on the Internet.

2. Efforts to bridge the digital divide should not merely be focused on increasing the number of people connected. Access for the marginalised should be a priority if we are to realise the WSIS vision of a people-centred, development oriented, inclusive information society. In line with the WSIS vision, a rights-based approach is required to bridge the digital divide.

3. Efforts to bridge the digital divide should also recognise that access to Internet and information and communication technologies (ICTs) is not a binary proposition; access should be understood as a spectrum. That is to say the divide is not binary, between the haves and have-nots; there are have-less and other degrees of access, use, cost, and benefits. Yet research on factors that enable essential Internet access remains scant. A more systematic gathering of data and a common effort to formulate key concepts is needed to better understand the digital divide, and the full array of factors that allow ICTs to contribute to development and the improvement of marginalised peoples' lives. Policy making based on poor data risks perpetuating or widening the digital divide.

4. It is not sufficient to provide connectivity; quality of service is essential to make the people-centred, development-oriented, inclusive information society a reality. If affordable, open, secure and full access for the most marginalised is a priority, community-based and community-owned information infrastructures and networks should be promoted as alternatives or complements to national-level infrastructure. In order for user rights to development and empowerment to be respected, it is also important to safeguard their right to privacy and security.

5. Access to knowledge and the right to information should be recognised as positive rights. Digital literacy will enable greater citizen participation in political, social and economic spheres.

6. Market dominance and non-competitive practices can undermine the empowering potential of the Internet. Such trends require attention, and the private sector should be made more accountable to users.

7. The Asia-Pacific region is particularly vulnerable to the negative effects of climate change and natural disasters. ICTs can be leveraged for, inter alia, regional cooperation in climate science, aid coordination, mitigation and adaptation.

8. More public funds, including from aid agencies and donors, need to be made available to increase investment in achieving access for all, with a special focus on marginalised populations and communities. A concrete timeframe should be agreed for this to be realised. To fully optimise universal access, specific regulations that nurture innovative solutions are necessary to enable open, secure and full access.

9. Universalisation of access and bridging the digital divide should remain a primary focus of the WSIS process, which will make it possible for ICTs to facilitate the realisation of the Sustainable Development Goals (SDGs).

Human Rights

10. As UN Human Rights Council (HRC) resolution 20/8 affirms human rights apply online as they do offline. All users of the Internet must enjoy human rights in full and equal dignity.

11. The Internet has proven to be crucial for the exercise and enjoyment of an array of rights enshrined in key international instruments and standards. These include civil, cultural, economic, political and social rights.

12. The boundaries between online and offline spaces are increasingly blurred. As more people go online, the Internet has become a critical enabler for the exercise of the full range of human rights.

13. There is a trend towards legislation and policies across the region that violate and repress the exercise of rights online. The WSIS process should encourage states to ensure all laws comply with international standards, norms and regulations.

14. As stakeholders, we must also recognise that the Internet has evolved into a medium that has allowed for the perpetration of human rights violations. For instance, persons expressing political and/or religious dissent online have often become targets of violent attacks including being killed. Women and sexual minorities in particular are the target of discriminatory and violent attacks, even for freely and consensually expressing their sexuality.

15. In the outcome document, member states should affirm the Universal Declaration of Human Rights (UDHR) as in the Geneva Declaration and Tunis Agenda, and along with, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and HRC resolution 20/8. The WSIS+10 Review should take into account existing human rights agreements, mechanisms and reports.

16. Governments need to pro-actively consider multidimensional strategies towards ensuring a positive environment for the exercise of digital rights. Appropriate legislation should be complemented with alternative initiatives to ensure a plurality of policies, practices and measures that can nurture social change, public discussion and rights-affirming cultures.

17. For these rights to be meaningfully exercised, they must be complemented by capacity-building initiatives. Such measures should include a broad-based societal programme for combating inequality and structural discrimination. This in turn will increase public awareness and understanding to nourish public pressure against human rights violations, including those perpetrated in the name of national security.

18. Freedom of association and assembly online can be violated by governments, often in conjunction with private companies, through acts such as kill switches. Further, good cybersecurity practices should allow states to protect their national security while upholding human rights.

19. The right to freedom of expression intersects with and is central to the enjoyment of all human rights. Any measure adopted by governments that infringes on the right to freedom of expression must meet international human rights standards.

20. Cooperation at the international level to protect the integrity and security of the Internet should recognise that it is transnational and therefore national action can have major unintended consequences; such measures must be addressed beyond the boundaries of state sovereignty.

21. Governments must ensure the right to privacy and data protection. They should also protect people from the violation of these rights by companies, including where necessary through the formulation of regulation. The right to control and manage one's identity online, including the right to anonymity, must be recognised.

22. Violations of human rights online are increasingly justified in the name of national security, under the pretext of cybersecurity. Instead, governments should adopt a positive conception of cybersecurity. This requires recognising that human rights, including but not limited to privacy and freedom of expression, are integral to cybersecurity and by extension to national security.

23. Violence against women involving the use of technology is growing, and the harms and violations perpetrated through and within ICTs are in need of serious attention. There must be concrete programmes and mechanisms to prevent violence in cyberspace by promoting human rights for all and harnessing the potential of ICTs to promote women's empowerment.

24. Sexual expression is a critical aspect of the right to expression and must be protected. Digital sexual expression, which includes information and education on health and rights, is particularly important in the Asian context where often times same-sex relationships are criminalised or stigmatised. LGBTI individuals who use digital spaces, and are dependent on the right to privacy and anonymity to exercise their right to seek, receive, and impart information.

25. In relation to the provision of online public services, offline alternatives should also be made available. Information must be seamlessly available in multilingual and accessible formats. Governments should take affirmative action for people with disabilities to enable the exercise of their rights online. Investment in multistakeholder research and infrastructure to ensure equal access to the Internet and the exercise of rights by disadvantaged groups, including the disabled.

Internet Governance

26. Internet governance is at the core of the information society agenda. The Geneva Declaration of Principles encourages a multistakeholder approach with involvement of governments, the private sector, civil society, technical and academic communities, and international organisations.

27. An Internet governance model that realises the people-centred, inclusive, and development-oriented information society vision of the WSIS process must harness the power of stakeholders to support the promotion of accountable and inclusive institutions. Such a model must ensure clear procedural rules with checks and balances, transparent objectives, and desired outcomes that are measurable.

28. The governance roles defined for governments and intergovernmental bodies have to be subject to accountability to the larger stakeholder community. Accountability and transparency must also be applied to other stakeholder groups, including but not limited to the private sector and in negotiations and enforcement of national and international instruments.

29. The WSIS process has put forward multistakeholderism as an effective and preferred model for Internet governance. It is conceived as a robust approach that helps aggregate diversity of views and thereby leads to better outcomes. The concept is not static and has had different applications in different contexts. Common to all applications are principles of openness and inclusion in decision-making.

30. Governance mechanisms need to be sensitive to the priorities and concerns of various actors, especially from developing countries. Participation in governance initiatives is difficult for marginalised people and those who lack the technical expertise to engage meaningfully in the debate. Under-representation of any particular stakeholder group undermines the legitimacy and utility of the multistakeholder model.

31. Marginalised groups need to be empowered through capacity-building schemes, and provided with resources to support their participation. The views of civil society organisations and the technical community should constantly be reflected and inform the decision-making processes.

32. Open processes do not necessarily result in meaningful and substantive participation. Transparent and accountable procedural rules that empower marginalised voices and those who lack technical expertise need to be developed. The creation of regional hubs to exchange information and good practices could help develop trust between national and regional level initiatives.

33. The WSIS process and the IGF have proved to be excellent platforms for continued dialogue among all stakeholders. The IGF mandate should be renewed and empowered with actionable recommendations. It should not expire and be subject to periodic review. Funding mechanisms should be created to enable the IGF to fulfil its functions not only at the global but also at the regional and national levels. The key challenge is to evolve the WSIS platform in a way that all stakeholders can continue to exchange views and learn from each other.

Acronyms

ICT(s)	Information and Communication Technology(ies)
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IGF	Internet Governance Forum
LBGTI	Lesbian Bisexual Gay Transgender Intersex
SDGs	Sustainable Development Goals
SIDS	Small Islands and Developing States
UN	United Nations
UNHRC	United Nations Human Rights Council
UDHR	Universal Declaration of Human Rights
WSIS	World Summit on Information Society

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