

United States of America

Comments on the March 21st Version of the WSIS Draft Declaration and Action Plan

Introduction

In Resolution 56/183 the United Nations (UN) General Assembly endorsed the framework established by the International Telecommunication Union (ITU) to convene a World Summit on the Information Society (WSIS). Resolution 56/183 specifically acknowledges the need for leaders at the highest political levels to “marshal the global consensus and commitment required to promote the urgently needed access of all countries to information, knowledge and communication technologies for development so as to reap the full benefits of the information and communication technologies revolution.” The United States of America supports this objective and sees the discussions underway in the WSIS preparatory process as a complement to and continuation of the ongoing global dialogue in a variety of international and regional fora including the ITU, UNESCO, WIPO, Council of Europe and other international organizations as well as in the Inter-American Commission on Telecommunications (CITEL), the Organization for Economic Cooperation and Development (OECD), and the forum for Asia Pacific Economic Cooperation (APEC). Actions adopted by the WSIS should not duplicate or undermine well-established, consensus work in these and other fora.

General Comments

Information and communication technologies (ICTs) play a critical role in sustainable economic and social development. Access to information requires an environment that promotes the creation of knowledge and ideas. The realization of the digital opportunities afforded by the information society can contribute to a better life for all citizens through the promotion of democracy, transparency, accountability and good governance. The United States urges participants to use this unique opportunity to reaffirm and implement Article 19 of the Universal Declaration of Human Rights that recognizes the right of each individual to seek, receive and impart information and ideas through any media and regardless of frontiers. All of these points should be clearly captured in the common vision put forth by the WSIS.

While it is important to exchange views on the variety of applications supported by the information society, it is essential to first ensure that the fundamental building blocks are in place. First, the WSIS should encourage governments to focus on creating, within their own nations, the appropriate legal, regulatory, and policy environment that encourages privatization, competition, liberalization and intellectual property protection and enforcement. The development of and access to basic telecommunication services and content is the next step. A

truly global information society will be based on the development of local content and the freedom of individuals to access the culture of their choosing in the language of their choosing. Finally, ensuring confidence and security in the use of these networks is essential to building a global information society.

Harnessing the power of the information society requires the active participation of all stakeholders – governments, the private sector and civil society. In particular, the role of the private sector as the driver of innovation and the essential nature of private investment in the development of the world's communications and information networks and facilities is critical. As such, the United States suggests that the documents emphasize the role of the private sector and the value of competition.

The United States directs its comments to the specific thematic principles as referenced in the draft Declaration of Principles and draft Plan of Action:

1) Information and communication infrastructure

Without an adequate infrastructure at the local and national levels, it is impossible for our citizens to fully interact in the global information society. The WSIS draft Declaration of Principles and draft Plan of Action currently assign insufficient weight and prioritization to the vital roles of private investment and competition to the development, deployment, maintenance, and modernization of the world's communications and information networks and facilities. A high priority must be placed on the need for national policies and international principles that promote investment, innovation and competition - all key elements to expanding information flows and promoting the build-out of communication infrastructure throughout the world. New technologies, fostered by a pro-competitive marketplace, hold the promise of driving down consumer costs and stimulating technical and market innovation. We believe that implementing clear and effective policies, good governance, and private sector investment, are keys to the growth of information and communication infrastructure.

2) Access to information and knowledge

The United States agrees that a knowledge-based society depends upon access to and availability of information, based on the principle of free flow of information and news. Information will come from a wide variety of sources – public and private, commercial and non-commercial, proprietary and public domain. Scientific progress depends upon the availability of data so that scientists may replicate and verify results and build upon existing knowledge. The Declaration of Principles and Plan of Action must recognize intellectual property as a vital component of the Information Society. Existing international intellectual property agreements provide a valuable mechanism through which to protect intellectual investment and encourage the creation and dissemination of works. These agreements encompass and reflect a balance between the interests of owners and users of intellectual property. Indeed, this balance is struck so that owners and creators are encouraged to develop and disseminate their works to the public for broader use.

Market conditions have led to the development and expansion of Internet infrastructure and services. The United States believes that Internet infrastructure and services should be market-driven and that Internet interconnection agreements should continue to be negotiated on a private, commercial basis. We object to the statement “guidelines on Internet contracts should be established and existing contracts for Internet traffic renegotiated” (paragraph 15 of the draft Action Plan).

It is important to draw a distinction between open source software and open standards. The WSIS documents currently discuss the two issues in a manner that creates confusion. *Open standards* generally refer to technical standards or specifications that are developed through a well-defined process. Open standards can improve interoperability and may facilitate interactions ranging from information exchange to international trade, thus fostering market competition. Because of these benefits, the use of open standards is encouraged whenever practicable. *Open source software* is a term used to describe software that is intended to be openly distributable, under a variety of different licensing arrangements. The United States recognizes that open source software can contribute to increased access and diversity of choice but it is only one of many possible models for the development of software. The WSIS documents should not promote one over the other (i.e. open source vs. proprietary), but should instead foster the availability of diverse alternatives and the freedom to choose among those alternatives. In short, the WSIS should remain neutral with respect to different technologies and modes of technology development.

The United States believes that the WSIS should affirm the right of all individuals to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers, as set forth in Article 19 of the Universal Declaration of Human Rights (UDHR). We believe that the WSIS draft Declaration of Principles and draft Plan of Action should refer to these rights as stated in the Universal Declaration. Rather than seeking to create additional rights at the WSIS, States should implement the obligations that they have assumed under human rights treaties. In this vein, we believe that individuals should have the freedom to communicate, access information and pursue development. Furthermore, the U.S. supports equitable access to ICT for women, youth, remote populations, and persons with disabilities.

3) The role of governments, the business sector and civil society in the promotion of ICTs for development

The U.S. supports a prominent role for the private sector and civil society at the WSIS, as envisioned in UNGA Resolution 56/182. The private sector is the primary investor in, and innovator of, infrastructure, products, content, and services. The views of civil society represent the disparate views of a variety of information society participants and need to be carefully integrated into national, regional and international development strategies. All governments should strengthen public institutions by facilitating the development of necessary infrastructure and by promoting transparency, accountability and fair administrative and judicial institutions. The WSIS should recognize that an environment that encourages public-private partnerships is essential to ensuring a sustainable information society.

4) Capacity building

The development of the information society depends on achieving basic education for all, including ICT literacy and workforce skills. Without the necessary literacy, education, and training, individuals will not be able to use available infrastructure and ICT to realize their human potential – and will not be able to access the larger world that composes the information society. Optimizing the use of technology can contribute to educational development. We should encourage schools to serve as community technology centers in order that persons can take advantage of their ICT resources. Therefore, the WSIS should acknowledge existing capacity building exercises underway at the national, regional, and international levels. Particular emphasis should be placed on the need to not only educate users but also policy makers and regulators. Furthermore, we believe it is beneficial for WSIS to harness volunteers to help educate businesses and entrepreneurs with the ICT skills and knowledge to operate more efficiently and to compete in the global economy.

5) Building confidence and security in the use of ICTs

Security of, and confidence in, ICT infrastructures are essential if the economic and social benefits of these technologies are to be achieved. Security requires action by all countries to prevent malicious activity and defend cyberspace through national action and cross border cooperation. The WSIS should endorse a global approach to cybersecurity rather than urging the creation of a global instrument on this topic. The WSIS should promote the adoption of effective substantive and procedural laws to counteract electronic crime; prevention of and defense against threats to cyber infrastructures; encouragement of information-sharing regarding computer emergency response; and support for existing international and regional mechanisms. In addition, WSIS should encourage all participants in ICT networks (governments, businesses, other organizations and individual users who develop, own, provide, manage, service and use ICT systems and networks) to join together to raise awareness of network security and to create a global culture of cybersecurity.

6) Enabling environment

To maximize the economic and social benefits of the Information Society, it is critical for all stakeholders to work together to create a clear, market-based, legal framework and supportive policy environment, capable of promoting technological innovation and competition, thus favoring investment in infrastructure and development of new services. This policy framework should promote competition, increased trade liberalization and private sector investment, including adherence to the WTO Basic Telecommunications Services Agreement, and support the private, commercial negotiation of Internet interconnection agreements. Countries should adhere to and fully implement existing multilateral, regional and bilateral agreements regarding intellectual property protection such as the WTO Agreement on Trade Related Aspects of Intellectual Property Rights and the 1996 WIPO Copyright Treaty and Performances and Phonograms Treaty treaties concerning copyright and related rights. In addition, the management of the Internet domain name and address system should take place via a public-private partnership that operates in an open and transparent manner to preserve and enhance the

necessary global interoperability and coordination of the Internet's unique identifier system while recognizing its technical limitations and requirements.

7) ICT applications

The information society is dependent upon the ubiquitous deployment of ICT networks and access to the variety of applications that can enhance all aspects of our daily lives. The WSIS should highlight the promise that applications such as e-government, e-health, e-commerce, and e-learning hold, while also recognizing that there is no one-size-fits-all solution to the myriad of development challenges facing each country. ICTs offer tremendous potential to advance education through distance learning programs, teacher training, and access for teachers and students alike to the vast pools of information and knowledge. ICTs provide businesses and entrepreneurs access to new national, regional and global markets and also create opportunities for training in modern business skills. E-government offers new possibilities for re-defining the relationship between government and the citizenry it serves. E-health services may serve to facilitate access to health care information and services. We note that Article 25 of the UDHR states “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including ... medical care....”. We support the freedom of everyone to seek healthcare services and information. However, the United States disagrees with the statement that “access to healthcare information and services is a basic right,” which goes beyond rights established under existing human rights treaties.

8) Cultural identity and linguistic diversity, local content and media development

Cultural diversity requires the free flow of information and content in cultures and languages of individuals’ choosing. It is important for governments to sustain an environment that does not deny individuals free choice of contemporary cultural products or language. Attempts to restrict or legislate against specific cultures or languages would create an artificial barrier against cultural growth and cultural pluralism. The broad dissemination of content from all cultures and languages must be preserved. Governments that choose to support the development of local content in local languages for dissemination through ICTs should recognize the importance that intellectual property rights play in such development, and should ensure that their citizens can benefit from an effective intellectual property regime.

9) Ethical Dimensions

The United States supports the right of everyone to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers, as set forth in Article 19 of the Universal Declaration of Human Rights (UDHR). We acknowledge that the exercise of this right carries certain duties and responsibilities and that it may be subject to certain restrictions, as provided by law in accordance with Article 19 of the International Covenant of Civil and Political Rights (ICCPR). As we noted in the declaration that we made when the United States ratified the ICCPR, we believe that States Parties to the ICCPR should, wherever possible,

refrain from imposing restrictions on the rights protected by the Covenant, including in particular the restrictions provided for in Art. 19(3) of the ICCPR.

10) International and regional co-operation

Regional and international organizations have proven to be extremely effective in facilitating policy formulation, infrastructure development and capacity building - all toward the aim of building a knowledge-based economy. The WSIS should recognize, and not call for duplication, of the extensive body of work already underway in the global and regional bodies. A global consensus has emerged with respect to the need to create digital opportunities that allow all of the world's citizens to fully realize the benefits that ICTs afford.

Conclusions

The United States views the current draft documents as an earnest attempt to collate all of the input received via the preparatory process. As the current documents are a reflection of many of the ideas presented but not yet debated, the United States believes that it is important for participants to carefully consider all views presented and to seek to ensure that the final documents reflect only the points where a truly global consensus was achieved.

The current drafts need to be pared back to enumerate the key concepts and actions necessary to achieve sustainable development of the information society. Specifically, the principles articulated should be concise, clear and specific only to the degree appropriate for high-level political endorsement. In addition, the final Declaration of Principles and Action Plan adopted in Geneva in December 2003 should be complementary in nature. The specific activities called for in the Plan of Action should directly correlate with the issues articulated in the Declaration of Principles. In this regard, detailed rationales for the actions are unnecessary.

Taken in concert with the contributions from the various stakeholders, the United States believes that the WSIS provides a unique opportunity for the global community to reaffirm ongoing activities and efforts in other fora that are contributing to WSIS objectives. We look forward to working with colleagues throughout the WSIS process and we are confident that a global consensus will emerge that appropriately addresses the concerns of all stakeholders.