World Summit on the Information Society
Draft Declaration of Principles and Draft Action Plan
(21 March 2003 versions)

COMMENTS SUBMITTED BY THE GOVERNMENT OF NEW ZEALAND

General comments

New Zealand welcomes the production of the basic documents **WSIS/PCIP/DT/2-E** and **WSIS/PCIP/DT/1-E** of 21 May 2003, which reflect the range of issues discussed during Prepcom 2. These documents provide an excellent starting point for the development of negotiating texts for Prepcom 3. They capture the diverse range of views expressed by government delegations at Prepcom 2. It is commendable that both documents draw on the Millennium Declaration Goals to provide a contextual basis for the World Summit on the Information Society.

2   The challenge now is for the intersessional process to refine these drafts into a shorter, sharper, focused working text. This refining process should aim to group issues into a logical order, to remove duplicated points and references to issues outside the scope of the Summit. The usual United Nations drafting conventions should be observed. The resulting document should provide the basis of formal negotiations at Prepcom 3. We would then expect that Prepcom 3 could deliver an agreed text of appropriate quality for submission to Government Leaders in advance of the December Summit.

3   The current draft declaration of principles duplicates much of the content of the draft plan of action. What is required is a set of defined actions linked to and deliverable against the Principles. This might be achieved by merging the two current drafts into one concise document. New Zealand understands that such a proposal has emerged from discussions in the Prepcom Bureau and would support such a move.

4   The intersessional process should aim to produce a single Summit document. It should have a brief (two page maximum) introductory declaration setting out broadly agreed principles, which would establish a framework for the action-oriented section which follows. The Principles section would constitute a high-level political declaration that is accessible to the public, and which could be used to consolidate political commitment among delivery agencies in every country. The Declarations

which emerged from the World Summit on Sustainable Development and the Monterrey Summit provide good models.

5   An action plan section of the document should aim to spell out a limited number of concrete, achievable and measurable actions which should reflect outcomes clearly relevant to the Principles. General truisms and statements of ideals should be avoided. An attempt should be made to prioritise the proposed action steps to reflect an underlying hierarchy of issues. This would provide a basis for progress to be measured and reported at Tunis. As countries' capacity to implement the action plan will be different, the language should be non-binding.

6   The WSIS process should reinforce but not duplicate related work under way in other parts of the United Nations and international system, such as UNESCO (particularly through its Information for All Programme), the United Nations Secretary-General's ICT Taskforce, WIPO, the WTO (eg the Agreement on Basic Telecommunications), APEC (particularly through its Telecommunications and Information Working Group – TEL, and its Electronic Commerce Steering Group - ECSG) and the OECD. The document could reference existing work by expert bodies to underline the extent to which these issues are being addressed multilaterally.

7   New Zealand notes APEC's work in areas relevant to the WSIS agenda, including in the areas of facilitating e-commerce, promoting cyber-security and developing strategies for overcoming the digital divide. TEL has undertaken specific initiatives addressing human resource development; technology transfer and regional cooperation; telecommunications standardization and the use of telecommunications to promote free trade and investment liberalisation. Private/public sector partnerships are a feature of TEL's operations. The paper submitted by APEC to the intersessional process summarises these activities and could be drawn on to inform the redrafting process.

Priority issues for New Zealand

8   New Zealand would like to see a Declaration of Principles section which gives emphasis to the importance of freedom of expression, cultural diversity, equal access to education, and universal access to information in the public domain.

9   New Zealand would like to see the Plan of Action section of the document give priority to measures to:

> - improve access to information as a resource for education, scientific research and industrial development;
> - establish sound legal, policy and regulatory regimes aimed at reducing administrative obstacles and tax burdens in order to encourage technological development, innovation and enterprise;
> - develop applications of ICTs which promote good governance and accountability, sustainable economic and social development, including applications for e-government, e-commerce, e-health, life-long learning and distance learning;

- develop ICT applications for preserving cultural identity and heritage, and which promote cultural diversity and local content;
- foster international interoperability by developing compatible global technical standards for ICTs;
- promote effective Internet security, and combat cyber-crime;
- address illicit and unsolicited content on the Internet;
- strengthen human resource capacity;
- support community-based and citizen-focused technology initiatives;
- protect the intellectual property of indigenous people;
- strengthen the capacity of libraries, archives and museums to preserve the digital cultural heritage, digital record and cultural memory.

10   In addition New Zealand would like to see the document:

- focus on access to information rather than just technology: We consider that the document overemphasises the importance of access to cutting-edge IT technology (such as broadband). ICTs are current and future tools for achieving improved communication flows, improved delivery of government services and access to information, not an end in themselves. There are dangers in the present focus on access to technology as the only solution to overcoming disparities in the Information Society. Consequences could include a demand for technology transfer possibly at the expense of other development assistance aimed at addressing more urgent, basic needs; the risk of increased limitations on use of ICTs through increased government control of ICT-related activities or monopolisation of resources by commercial interests. We would argue instead that what is required is equitable access to information flows and connectivity. We would therefore prefer to see the document focus on promoting open communication, information flow, and access to information;

- recognise the importance of traditional media, as well as ICTs: We would be concerned if non-users of ICTs became further marginalised through moves to make information available primarily on-line. The effect of such moves where the digital divide is most acute would be to reinforce inequitable access;

- recognise the special needs of small island developing states in making the transition to knowledge societies: Pacific island countries have pointed out in their contributions to the WSIS preparatory process that "one size does not fit all" when it comes to identifying measures to bridge the digital divide. Care must be taken to determine the appropriate level of priority to assign to ICT development in countries where basic literacy and other needs are still urgent problems, and where sustainable support systems and infrastructure have first to be put in place;

- recognise diversity and special needs through the development of specific measures to address the interests of vulnerable or disadvantaged groups. For example New Zealand strongly supports the attention given in the draft declaration to gender perspectives and the needs of women. However these references are not supported by relevant activities in the draft action plan. In this context we note that one of the themes of the 3-14 March 2003 session of the UN Commission on the Status of Women was "Participation and access of women to the media, and information and communication technologies and their impact on and use as an instrument for the advancement and empowerment of women." The agreed conclusions adopted by the Commission on this

theme could be drawn on to develop specific measures relating to women's participation in the information society. The document can be found at http://www.un.org/womenwatch/daw/csw/csw47/AC-mediaICT-auv.PDF

Problematic aspects of the text for New Zealand

11   NZ acknowledges the need for effective **information security** (article 25 of the draft action plan), but would be wary of establishing an entire new organisation – if this is what is envisaged by "creating a rapid reaction organisation to deal with security violations". New Zealand would want first to establish that a need for an eventual new convention exists before lending support to the reference to the possibility of an international convention on the security of information and communication networks.

12   Article 34 of the draft action plan contains a number of statements about intellectual property rights which present significant difficulties for New Zealand's intellectual property rights framework:

• Existing intellectual property rights statutes already balance the rights of owners and the interests of users of intellectual property. International treaties set minimum standards, both in terms of what must be protected and criteria for exceptions to IPRs. Beyond this States have the freedom to determine where the balance should lie to best suit their economic and other policy objectives. It would seem inappropriate and unnecessary to promote initiatives that stipulate where the balance should lie. This should remain a matter for domestic decision, taking account of economic circumstances, including for example, whether a State is a net importer or exporter of intellectual property. It would be more appropriate if the statement simply noted that IPR legislation balances the rights of the owners of IPRs with the interests of users.

• The reference to an appropriate legal framework for the development of a public domain of information and knowledge is redundant. Intellectual property law makes it quite clear that IPRs do not apply to public domain information (information to which IPRs do not apply or where IPRs have expired or been waived). Public domain material may be freely used so there is no need for a framework. It should also be noted that IPRs do not apply to information *per se* (e.g. copyright only applies to expression, not information).

• It may be that the statement has not been clearly expressed, i.e. it may be intended to refer to information that is not in the public domain and imply that it should be there. That would cut across existing IPR frameworks (both domestic and international), and reduce incentives to create and innovate. New Zealand would not support such a reference.

13   New Zealand also strongly recommends that the document make specific reference to work underway on IP issues in other contexts, including the World Intellectual Property Organisation, so that it is clear the extent to which issues raised in this document are already being addressed elsewhere in the international system.

14   New Zealand questions whether the reference to "incorporation of ICTs on a mass scale" in respect of promoting e-health (article 39 of the action plan) is appropriate

to all developing countries' ICT needs. There is considerable debate for example amongst donors and stakeholders in the Pacific about the scale of ICTs required. A number of donors are currently undertaking needs assessments/IT capability assessments in the Pacific. Indications to date from the experts are that small scale is more appropriate to the Pacific context.

15   New Zealand is not comfortable with references in the draft action plan which have implications for the delivery of overseas development assistance. Particular concerns include proposals for benchmarks, a global digital compact, a digital solidarity fund, country-level indicators, performance monitoring and reporting. In general it should be left to developing countries in partnership with donor countries to establish their own priorities for development according to their individual situations and needs. We would further note that proposals involving onerous reporting or performance monitoring obligations are likely to be unacceptable to developing countries.

- Benchmarks (article 45(a) of the action plan): New Zealand questions the value of introducing specific development-oriented targets in the WSIS context. The Millennium Declaration Goals include a substantial ICT element. As the Millennium Declaration is already a basic reference point in the WSIS draft texts, it is unnecessary to include additional development targets in the WSIS context. As a general rule, New Zealand is also wary of introducing new time-bound targets when the international community has not been able to meet existing targets. We question whether there has been any realistic analysis as to whether the goals are achievable within the given timeframes. We question the applicability or relevance of some of the targets to, for instance, small Pacific island countries. Even if they had the capacity, these administrations would likely not assign priority to ensuring website and email capability for local and central governments when basic infrastructure or other development needs have still to be met.

- New Zealand does not support the proposed Global Digital Compact (article 45(c) of the action plan). The United Nations' existing Global Compact is poorly subscribed, and has not proven effective: we are wary of duplicating the exercise in the ICT context. We do not believe that such a Compact would contribute to facilitating public-private partnerships at the national level. Nevertheless, New Zealand would not oppose retaining the reference as long as subscribing to such a Global Compact remained voluntary.

- Digital development index (article 45(d) of the action plan). There is a risk of this duplicating existing development indexes. Such indexes usually prove an expensive exercise, and become an administrative burden on small administrations such as Pacific island countries. A better option might be to ensure that digital development was captured as part of the United Nations Human Development Index.

- Both developing and donor countries may be reluctant to accord priority to establishing regulatory frameworks for e-strategies (article 47 of the action plan), in the face of more pressing regulatory requirements.

- New Zealand similarly questions the need for performance monitoring in respect of e-strategies (article 52 of the action plan). This would prove another administrative burden for developing countries.

- New Zealand similarly does not support the use of prescriptive language in respect of the initiatives listed in article 53 of the action plan (promoting long-term government spending on R&D and higher education; providing tax incentives, creating a network of ICT consultants) for similar reasons. Such initiatives may be a low priority, or not appropriate for some developing countries including small Pacific island administrations.

- Digital solidarity fund (article 55 of the action plan). New Zealand does not support the creation of another new United Nations Trust Fund. New Zealand has not found such funds a cost-effective way of delivering development funding. They have proven expensive to run, and have been unable to generate additional financing. They are opaque in their governance (such as on decisions on what and where to fund) and slow in disbursing funds. Funding could be provided more effectively through other existing programmes and mechanisms.

- Indicators (article 57 of the action plan). As with the proposals for performance monitoring, New Zealand does not accept there is a need to impose a requirement for statistical indicators or periodic reporting at the national level. Such an exercise is likely to be expensive, burdensome for developing countries, and would be likely to duplicate indicators established in the context of the Millennium Declaration Goals.

16   New Zealand agrees that policy authority for country code top-level-domain names (ccTLDs) should be the sovereign right of countries as noted in the declaration of principles (article 44). However, New Zealand is concerned that article 33 of the action plan may be taken to imply that a new governance body should be established replacing the Internet Corporation for Assigned Names and Numbers (ICANN) which is currently undertaking this responsibility, or that such work should be incorporated into an existing UN body such as the ITU. It would be preferable for the action plan to call for countries to support co-ordination of standardisation and development work being undertaken in this area by the ITU and other intergovernmental organisations and to support the work of the Government Advisory Committee of ICANN.