

# Freedom Online Coalition (FOC) Terms of Reference

As adopted by the FOC members  
in Nairobi, Kenya, September 6<sup>th</sup> 2012



## Introduction

The Freedom Online Coalition (FOC) was established at the inaugural Freedom Online conference in The Hague, the Netherlands, on December 8<sup>th</sup> and 9<sup>th</sup> 2011. Since the meeting, members of the coalition have gathered informally at numerous conferences and intergovernmental meetings relevant to internet freedom as well as in specific countries, to coordinate viewpoints, share relevant information, and discuss strategies to advance an open Internet in each context. The government of Kenya organized the second Freedom Online meeting in Nairobi, Kenya, on September 6<sup>th</sup> and 7<sup>th</sup> 2012, in which the central themes of the first Freedom Online conference were built upon, with a particular focus on the African continent. The founding principles of the Freedom Online Coalition (included with this paper) were the point of departure for this event, as they will be for the third Freedom Online meeting that will be held in Tunis, Tunisia from 16-18 March 2013.

These Terms of Reference serve the following purpose:

- To build on the momentum of the coalition and assure continuity in the Coalition's goals and means of achieving them;
- To create a strategic framework to effectively work together as FOC members;
- To identify key issues for the FOC to monitor and take action on.

## Political support for pressing issues of internet freedom

As identified in the founding statement, FOC member states have committed to working together diplomatically to voice concern over measures to restrict Internet freedom and support those individuals whose human rights online are curtailed. An example of action since the founding of the coalition was coordination among FOC members with missions in Hanoi, to respond to a concerning draft decree of Internet regulations proposed by the Vietnamese government, and jointly suggest changes to make the decree more respectful of Internet freedom.

To further structure such engagements:

- Member countries will use the listserv to share their concern over a possible internet freedom infringement that might benefit from joint action with other members (such as a public statement, joint demarche, or coordination of bilateral engagement).
- Based on reactions from member countries, the chair country assesses whether the situation merits joint action on behalf of the FOC, and proposes a plan of action to the members.
- Based on a silence procedure (i.e. no objections from FOC members within a defined time period), member countries agree to the proposed plan of action (including possible comments and suggestions), or oppose the plan and inform the chair country.

### **Coordination of action in international fora**

As identified in the founding statement, the member countries have committed to working closely together in international fora to assure as much support for human rights online as possible. An example was convening FOC members in Geneva to gather maximum support for the resolution on Internet freedom initiated by FOC member Sweden in the 20<sup>th</sup> Human Rights Council.

The FOC will attempt to coordinate work in these global fora by convening coordination meetings ahead of important sessions. The agenda for these meetings is to be drafted by the FOC chair country in coordination with the founder, and shared for input among FOC members ahead of the meetings. Coordination ahead of sessions of the following organizations will be organized as much as possible:

#### **United Nations**

FOC member countries will try to meet at least three times a year (as relevant) ahead of each Human Rights Council session to discuss internet freedom related matters. The chair country, or another interested member country, convenes the meeting through its mission with representatives from FOC member missions or with experts from capital. Freedom Online member countries gather at least once in preparation of the UN General Assembly in New York, convened by the chair country with FOC member representatives from the missions or by experts from capital.

#### **Internet Governance Forum (IGF)**

The IGF is another global forum where all FOC members should consider attending. FOC members will convene a general strategy meeting with experts from capital or local embassy staff during the Internet Governance Forum in Baku, Azerbaijan, and during every IGF thereafter, to advance Internet freedom in this forum. Members may likewise convene as Internet governance issues arise in other forums, with potential Internet freedom implications (e.g., ITU WCIT-12, ICANN).

#### **Regional engagements (OSCE)**

Throughout the year 2012, the Netherlands mission in the OSCE has convened FOC member missions regularly to discuss advancing Internet freedom in the OSCE. This coordination will continue toward the upcoming OSCE Human Dimension meeting, and is a good model to consider for other regional forums where coordinated action may be useful.

Individual FOC members belonging to certain regions will also try to meet ahead of relevant congresses, conferences and events of regional intergovernmental organisations, companies and civil society organisations where appropriate, and provide feedback to all FOC members.

#### **Digital Defenders Partnership (DDP)**

As identified in the founding statement, it is the intention of some member countries to work together in supporting bloggers, digital activists, and other netizens with project support. At the inaugural Freedom Online conference, the Dutch Minister of Foreign Affairs announced the intention of some of the FOC members to financially support the Digital Defense Partnership (DDP). The key focus of the DDP is supporting rapid response projects that can provide immediate relief to internet users who are facing repression for exercising their human rights online. To date, the Dutch, Estonian, U.S. and U.K. governments have pledged money to the Partnership, and identified the NGO HIVOS as the suitable organization for administering the programming of these funds. Other countries are actively

considering donating funds as well. The terms of reference of the Partnership were announced at the 2<sup>nd</sup> Freedom Online conference. If any other member countries are interested in the Partnership and would consider making funding available to it, they are encouraged to contact the DDP Programme Director Fieke Jansen at [fjansen@hivos.nl](mailto:fjansen@hivos.nl).

### **Engagement with ICT companies:**

Under the founding document, member countries committed to engaging companies and all relevant stakeholders on human rights challenges faced by the ICT sector in their work. So far, member countries have held informal consultations (jointly and independently) with the Global Network Initiative, a multistakeholder effort to help ICT corporations address human rights challenges constructively. FOC members are encouraged to convene and engage with companies in their countries to discuss these issues at the national level.

### **Chairmanship rotation**

As founding member and organizer of the first Freedom Online meeting, the Netherlands assumed the first chairmanship of the FOC and would like to remain involved to ensure consistency with the Coalition's original purpose. Any member country that proposes to organize a follow-up Freedom Online conference – if so desired – automatically assumes chairmanship of the FOC, in coordination with the outgoing host. If a host government does not have capacity or interest to assume chairmanship, it can request other member countries to share the position. As founder, the Netherlands will continue to support the current chair to ensure continuity from year to year.

### **Membership expansion**

The inaugural members of the Freedom Online Coalition (Austria, Canada, the Czech Republic, France, Estonia, Ghana, Ireland, Kenya, the Republic of Maldives, Mexico, Mongolia, the Netherlands, the United Kingdom, the United States, and Sweden) endorsed the founding *Freedom Online: Joint Action for Free Expression on the Internet* statement at or shortly after the Hague meeting. Finland, Costa Rica and Tunisia have since joined the FOC.

For new aspiring members, the following procedure is set in place:

- The chair country, in coordination with the founder, functions as point of access for aspiring members. Any interest for membership expressed by aspiring member countries to current Coalition members are forwarded to the chair country and the founder. Any current member that wishes to nominate an aspiring member country equally informs the chair country.
- The chair and founder assess the credibility of the applicant country for membership of the FOC based on:
  - 1 The domestic record respecting human rights online, as independently assessed by reports from NGO and civil society organizations, including:
    - The *Freedom on the Net* report by Freedom House
    - The *Enemies of the Internet* index by Reporters without Borders
    - The annual *GISWatch* reports as published by APC and HIVOS
  - 2 The voting record of the applicant country in international fora on internet freedom issues as expressed in resolutions and statements (such as in the United Nations General Assembly, the United Nations Human Rights Council, and other regional intergovernmental organizations).

- 3 The degree to which the country takes a proactive role on furthering internet freedom in its foreign policy.
- Based on these criteria, the chair country nominates the aspiring country for membership to all the members of the FOC, by informing the points of contact of the current FOC members via the FOC listserv. Under a silence procedure (i.e., if there are no objections by current FOC members within a month of the nomination), the aspiring country is then accepted as official member and informed by the chair country.

In expanding the membership of the Freedom Online Coalition, it is further proposed that coalition members take into account the global and regional balance of the membership, so as to ensure the global nature of the FOC, while ensuring consistency with the Coalition's objectives

## **Freedom Online: Joint Action for Free Expression on the Internet**

1 Underscoring our commitment to respect the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights, and reaffirming that everyone has the right to freedom of opinion and expression, including the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers, as well as the right to freedom of assembly and association, the right to the protection of the law against arbitrary interference with his or her privacy, and the freedom of religion or belief, amongst others,

2 Recalling our commitment to the principle that the human rights that people have offline enjoy the same protection online,

3 Noting that the Internet has always been fueled by policies that promote the free flow of information and that protect human rights and foster innovation, creativity, and economic growth,

4 Noting with concern that in many countries these human rights and fundamental freedoms are increasingly subject to restrictions, whereby the flow of information on the Internet and through connection technologies is limited beyond the few exceptional circumstances in which restrictions are acceptable in accordance with international human rights legal obligations,

5 Noting that governments are increasingly making use of a variety of measures to limit these freedoms in a manner contrary to their obligations, such as illicit monitoring, filtering and hacking, on- and offline repression of network technology users, including intimidation and arrests, and even completely shutting down the Internet and mobile networks,

6 Recognizing the need for States to protect the exercise of human rights and fundamental freedoms on the Internet and through connection technologies, and to support individuals, organisations and institutions who use new technologies to promote human rights, democracy and development,

7 Considering the key importance of engagement by all relevant stakeholders, including governments, businesses, civil society, academics and other experts, in protecting and promoting human rights and fundamental freedoms online, and underlining our commitment to work closely together in a multi-stakeholder process to further Internet freedom globally,

8 Considering the responsibility of businesses to respect human rights and fundamental freedoms on the Internet and through connection technologies, and the ways in which those technologies, products, and services can be used to impact these rights and freedom

We, as participating States, dedicate ourselves to:

- A Establishing a coalition to share, as appropriate, information between our States on potential violations and other measures that undermine the enjoyment of freedom of expression and other human rights on the Internet and through connection technologies around the world, and to consider measures needed to protect and advance these rights, working in close engagement with all relevant stakeholders. The coalition intends to hold a senior-level meeting at least once a year and maintain frequent working-level coordination.

- B Collaborating closely to support – both politically and through project aid – the ability of individuals, particularly those operating in repressive environments, to exercise their human rights through the Internet and connection technologies. Participating States intend to engage with other governments, regional organisations, international institutions, civil society organizations and other relevant stakeholders to reinforce our efforts in this regard.
- C Cooperating together in appropriate international and regional organizations and through our diplomacy with individual countries to promote the freedoms of expression, association, and peaceful assembly with respect to the Internet and connection technologies, and
- D Engaging together as members of this coalition with information and communication technology businesses from across the globe on their responsibility to respect human rights and fundamental freedoms online. Participating states intend to encourage such businesses to adopt practices, as well as policies or statements of principle, that address concerns related to the export and misappropriation of technologies for repressive ends, inappropriate requests for personal data for political purposes, and illegitimate blocking of content, and to take all other measures necessary to respect human rights and fundamental freedoms on the Internet and through connection technologies.

Endorsed by Austria, Canada, Costa Rica, the Czech Republic, Finland, France, Estonia, Ghana, Ireland, Kenya, the Republic of Maldives, Mexico, Mongolia, the Netherlands, Tunisia, the United Kingdom, the United States, and Sweden.