

# THE STOCKHOLM TERMS OF REFERENCE OF THE FREEDOM ONLINE COALITION

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## I - INTRODUCTION

The Freedom Online Coalition (FOC) was established at the inaugural Freedom Online Conference in The Hague, Netherlands, on December 8th and 9th, 2011. The purpose of this document is to outline the updated structure and operational aspects of the FOC, based upon the results of the Strategic Review of the Coalition that were presented at the 6th Annual Conference in San Jose, Costa Rica in October 2016.

The Coalition Members reaffirmed in the San Jose Statement and Work Plan their individual and collective commitments to the Founding Declaration from The Hague (December 2011) and the Tallinn Agenda for Freedom Online (April 2014). The FOC clarified that the goal of the Coalition is to serve as a multilateral coordinating body that advances cross-regional diplomacy and multistakeholder engagement to promote and protect human rights online globally. Members also acknowledged the importance of remaining flexible in structure and strategy, while recognizing and committing to address, where necessary, the limits that informal arrangements can have on effectiveness, impact, and internal coherence.

## II - AIMS AND PRIORITIES

### a) Mission

The Freedom Online Coalition is a group of countries deeply committed to the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights. We believe that the human rights that people have offline must also be protected online. We commit to working together, and with all others who share these views, to support Internet freedom and protect human rights online worldwide. The FOC aims to be a proactive coalition that ensures Internet freedom issues are on the international policy agenda as a way to drive concrete policy changes and outcomes.

### b) Priorities

To support the above-stated mission statement, Members agreed in the San Jose Statement and Work Plan to prioritize three primary activity areas:

1. Strengthening coordination and cooperation among Members, as well as with outside stakeholders who share the Coalition's objectives, with added focus on fostering cross-regional diplomacy through employing local networks;
2. Shaping global norms on human rights online through joint statements;
3. Holding periodic convenings with Members and other stakeholders.

## III - MEMBERSHIP

### a) Application for Membership

The FOC seeks to build an open, inclusive multilateral coalition composed of like-minded countries seeking to protect and advance human rights online and offline in their domestic, bilateral, and multilateral affairs. Membership is open to all countries with good human rights records. The FOC will strive to include broad, cross-regional representation.

Countries interested in Membership shall contact the Support Unit and/or the Chair of the Coalition. An existing Member may also refer a country for Membership to the Chair.

An application for Membership in the Coalition shall include a letter addressed to the Chair, or in the absence

of a Chair, to the FOC Support Unit, that sets out its reasons for seeking Membership and clearly states its commitment to the Membership responsibilities as outlined in paragraph III.b. of this document.

Upon receipt of an application, the Chair or the Support Unit shall inform the Friends of the Chair (FotC), which will be invited to provide any comments within thirty days. The Support Unit shall separately produce a report assessing the applicant country's record on:

1. Demonstrating respect for human rights online domestically, including as independently assessed by reports from civil society organizations, such as: the Freedom on the Net, Freedom in the World, and Freedom of the Press reports by Freedom House; the Global Information Society Watch Report (GISWatch) report published by APC and Hivos; the Committee to Protect Journalist's list of imprisoned journalists; and Privacy International's stakeholder reports.
2. The record of the applicant country's actions in international and regional fora on the Internet, human rights, and press freedom issues, including as expressed in resolutions and statements.
3. The degree to which the country takes a proactive role furthering Internet freedom in its foreign policy.
4. Membership in good standing in other intergovernmental or multistakeholder initiatives focusing on democracy, transparency, or open government, including the Community of Democracies (CD) and the Open Government Partnership (OGP).

The Chair will circulate the candidate country's application, any comments received from the FotC, and the Support Unit's report (together, the "application package") to the FotC, which will review that documentation and decide whether to recommend the applicant for Membership. If consensus does not exist, the applicant will be informed and may be offered an opportunity to apply to be an "Observer" (see III.c below). If consensus exists within the FotC to recommend the applicant for Membership, the application package, together with any other information the FotC deems relevant, will be sent to the full Membership for silence procedure.

If the application is approved, the applicant, as well as the Membership, will be notified and a note indicating the approval will be posted on the FOC's website.

If the application is not approved, the applicant will be informed and may be offered an opportunity to be an "Observer" (see III.c below). An applicant can retract its application at any time during this process and may apply again at any point six-months after an unsuccessful application.

All application-related information shall be treated with confidence.

## b) Membership Responsibilities

The responsibilities that FOC Members commit to are the following:

1. Upholding the commitments in the Freedom Online Coalition's Founding Declaration;
2. Implementing the principles in the Tallinn Agenda;
3. Participating in the FOC Conference and the peer-learning session;
4. Participating in other FOC meetings and FOC initiatives outlined in the program of action;
5. Providing financial assistance when feasible;
6. Sharing information and feedback gathered from the field, including on specific country situations, as appropriate;
7. Engaging openly with other stakeholders on Internet-related laws and policies, including through existing processes such as the Universal Periodic Review;
8. Committing to preserve and strengthen the multistakeholder model of Internet governance in multilateral fora and in domestic engagement with Internet stakeholders

## c) Observer Status

The FotC may at its discretion offer "Observer" status for States or non-State entities that are interested in joining, but lack the resources to make a full commitment, and/or are invited to become observers after being unable to obtain Membership through the application process. States or non-States entities interested in becoming Observers shall follow the same process as a government applying to join the Coalition as a full Member. Observer status will be valid for two years at which point it must be reviewed and renewed by the FotC.

Observers in the FOC will be restricted from:

1. Voting or ending silence as part of the process of developing/approving FOC statements, documents, or decisions;
2. Serving on the Friends of the Chair or as Chair.

#### d) Termination

Any Member or Observer may withdraw from the FOC at any time by submitting a letter to the Chair and Support Unit indicating as much. A Member can acquire Observer status when renouncing FOC Membership.

The Chair or FotC may call for a review of any other Member or Observer's compliance with the Membership responsibilities as stated in part III.b. of this document, in which case the Chair or FotC shall produce, with support of the Support Unit, a report covering the relevant aspects of the Member's performance against their responsibilities. The Member or Observer under review will be informed of this report and afforded an opportunity to submit information in response. If upon consideration of this report, as well as any information submitted by the Member or Observer under review, the FotC agrees that Membership or Observer status should be terminated, it will recommend this to the full FOC Membership for a silence procedure. The Member or Observer under review will not be allowed to participate in this silence procedure.

If the Membership of a Member or Observer is terminated, a note indicating as much will be posted on the FOC's website. All other information regarding a Membership termination procedure shall be treated with confidence.

## IV - STRUCTURE

#### a) Chair

The Chair of the FOC shall be held for a one-year, one-time renewable term. Two Members may choose to put forward a joint bid to co-Chair the Coalition. The responsibilities of the Chair include:

1. Leading the Coalition's outreach and Membership processes, including receiving and distributing applications from Member and Observer candidate countries;
2. With support from the Friends of the Chair set the agenda by developing an FOC program of action that will identify planned priority activities and any other intended deliverables. The program shall be shared with the Membership of the FOC.
3. Delivering on the program of action, with support from the FotC;
4. Coordinating policy initiatives, identifying critical issues in human rights online and global Internet governance that deserve further discussion, engagement, or programming;
5. In consultation with the FotC, the Support Unit, and the Advisory Network, organizing or delegating coordination of the FOC Conference;

If multiple bids for Chair are submitted, the Chair will be picked by a simple majority of votes submitted in a secret ballot by non-bidding FOC Members. If more than two bids are put forward, successive rounds of voting may be used to reach a majority. At least half of the Membership must vote in order for a vote to be valid. In the absence of a Chair, all functions herein assigned to the Chair shall be executed by the FotC.

#### b) Friends of the Chair

The Friends of the Chair (FotC) shall advise and support the Chair of the Coalition and will be comprised of not more than one-third of the Coalition's Membership at any time and include the previous Chair of the Coalition. Any Member may volunteer to serve on the FotC. Any member of the FotC may withdraw at any time by submitting a letter to the Chair indicating as much. If more than one-third of Members express interest, Membership in the FotC will be decided by a secret ballot in which the contending countries are ranked by number of votes they receive. Each Coalition member shall be allowed to vote for three (3) countries to serve on the FotC; at the conclusion of voting, the countries that receive the most votes cast shall be selected to serve on the FotC. At least half of the Membership must vote in order for a vote to be valid.

The responsibilities of the FotC include:

1. Supporting the Chair in drafting and delivering on the FOC program of action;
2. Assisting in the planning and organization of official FOC events, including annual conferences, formal events on the margins of Internet governance, human rights, or other multilateral meetings or conferences;
3. Proposing decisions on Membership to the FOC;
4. Aiding in the drafting of FOC statements and documents;
5. Supporting the Chair in conducting outreach to governments, civil society groups, businesses, academics, and other Internet stakeholders;
6. Recruiting future Chairs;
7. Other duties as requested by the Chair and agreed upon by the FotC.

#### c) Funding Coordination Group

The FOC Funding Coordination Group (FCG) shall aim to ensure the financial sustainability of the Coalition and coordinate donor activity to support Coalition aims and objectives. Any Member may volunteer to serve on the FCG.

#### d) Freedom Online Coalition Advisory Network

The Members welcome the participation and contributions of non-state Internet stakeholders in the FOC. Such participation will primarily be channeled through the Advisory Network, which will:

1. Serve as a mechanism for multistakeholder advice on the aims, objectives and activities of the FOC, and pertinent issues related to human rights online;
2. Support the FOC's mission of advancing human rights online through stakeholder engagement;
3. Be instrumental in ensuring multistakeholder engagement in the planning and organization of and participation in FOC Conferences, as well as other FOC events and meetings.

The Advisory Network will consist of individuals, serving either in personal or organizational capacities and representing non-state Internet stakeholders, including civil society, businesses, academics, technical organizations, and other experts seeking to promote and protect human rights and fundamental freedoms online. Any individual or institution that has demonstrated consistent support for the goals of the FOC may join the Advisory Network.

The Advisory Network's structure, Membership, and working methods shall be outlined in the Advisory Network's Terms of Reference document.

#### e) Working Groups and Other Entities

The FotC may establish a subordinate entity, such as a working group, at any time by publishing its mandate and a call for participation on the FOC website. The call for participation should specify if there is any limit to the number of participants and whether it is open to Observers, Members of the Advisory Network, or others. Working Group mandates will be reviewed and must be affirmatively renewed by the FotC at each FOC Conference.

#### f) Support Unit

The FOC shall maintain a Support Unit, whose functions shall include:

1. Organizing, as well as taking and distributing notes of FotC calls;
2. Supporting the Chair and the FotC in ensuring effective outreach to Members within the FOC, including via regularly checking the assigned contact points and by facilitating FOC decision making; assisting with organizing the FOC Conference, as well as other FOC meetings and events;
3. Facilitate consultations of the Advisory Network, including requesting advice from Advisory Network Members on behalf of the FOC and presentation of Advisory Network Member input to the FOC;
4. Producing a periodic, publicly distributed FOC newsletter.

Additional functions may be assigned to the Support Unit by the Chair or the FotC, as appropriate. The Support Unit shall propose a program of activities and related budget to the FotC annually. The FotC will review and approve these documents and work with the Funding Coordination Group to secure the financial commitments necessary to support them.

## V - WORKING METHODS

### a) Decision Making

Unless indicated elsewhere in these Terms of Reference, all decisions will be made as follows: FotC decisions will be made by consensus and decisions by the FOC Membership shall be taken by silence procedure. The FotC may also make decisions by means of a silence procedure if deemed appropriate. A silence procedure is ended when any Member submits a written note before the end of the procedure to the Chair and/or Support Unit stating that it is breaking silence and providing an explanation for such action.

Information about such a country's difference of opinion will be provided to the initiator(s) of the silence procedure. Silence procedures shall typically last fifteen calendar days. However, if the FotC considers that circumstances warrant, an "expedited" [five-working day] silence procedure may be used.

Where the FotC deems it necessary, it may put a matter that has not passed a silence procedure to a secret vote by the FOC Membership. In such instances, at least half of all Members must vote in order for a vote to be valid, and two-thirds of voting Members will be required to approve a matter by vote.

For further clarification, these Terms of Reference may only be amended through the full, fifteen-day silence procedure.

### b) Coalition Statements

Any Member or the Advisory Network may recommend a topic for development of an FOC statement, by submitting a justification in writing to the Chair and/or Support Unit. If the recommendation is made by a Member, the Advisory Network may be offered an opportunity to provide input if appropriate and practical; and vice-versa. If the Chair decides to develop a statement it will assign primary drafting responsibilities to an FOC Member, who will endeavor to produce a draft within thirty days. If appropriate, the Chair will at the same time request input from the Advisory Network on the topic in question.

A draft statement will be shared with the full Coalition for comments after it has been circulated to the FotC for a seven-day review and comment period. The lead drafters may also decide to circulate the draft to the full FOC for review and comment at the same time. Following a review by the FotC, it will be circulated to the FOC Membership under silence procedure. A statement that achieves consensus will be issued on behalf of the FOC.

In case of statements issued under exceptional<sup>1</sup> circumstances, the Chair will seek to inform the Coalition about the intent to develop a draft as early as possible. The lead drafters of exceptional country-specific statements must respect a reasonably long consultation period and indicate the expected date of publication. Lead drafters must regularly update FOC Members on the list of signatory countries. Regular statements that require extensive consultation as they feed into shaping and affirming global norms, will have the regular time period for review and comments.

### c) Statements by Member States

In the case a consensus among Members is not reached, the lead drafter may offer Members the opportunity to proactively opt-in to support the statement, and the statement will be issued on behalf of the supporting Members, rather than on behalf of the FOC. The final statement will include wording such as "This statement is delivered on behalf of the following FOC Members...", followed by a list of signatories.

Country-specific statements or thematic statements mentioning country-specific situations must remain on an exceptional basis<sup>2</sup>, in response to repeated and publicly documented human rights violations online.

### d) Coalition Conferences and Meetings

The Coalition shall endeavor to hold an FOC Conference annually. The Conference may be a free-standing event, or can be organized on the margins of other relevant events. FOC Conferences shall be planned by the Chair, in coordination with the FotC, the Support Unit, and the Advisory Network. Unless otherwise indicated in these Terms of Reference or in its agenda, all FOC meetings/events will be open to all FOC

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<sup>2</sup> The FOC defines exceptional as a repeated and publicly documented violation of human rights online whereby the FOC Chair determines that a timely public response is imperative to raise awareness and/or register the FOC's condemnation.

Members, Observers, and Advisory Network Members.

#### e) Coordination of action in multilateral and regional fora, and third countries

The FOC shall endeavor to establish networks or caucuses to enable and enhance diplomatic cooperation and engagement between FOC Members in relevant multilateral and regional fora, and in third countries. The FOC shall endeavor to organize meetings ahead of or as a response to relevant sessions and other events. Responsibility for these meetings shall lie primarily with a "lead" country identified within each network, caucus, or country, with assistance from the Support Unit as appropriate. The lead will be responsible for providing updates to or requesting assistance/advice from the FotC and the Advisory Network.

The FOC shall also coordinate ahead of and/or during important international Internet policy meetings/ events, such as the Internet Governance Forum and relevant International Telecommunications Union sessions. Such coordination and any related meetings will be led by the Chair in coordination with the FotC and the Advisory Network.

#### f) Transparency and Communication

The FOC is committed to the principle of transparency and endeavors to improve both internal and external communication about its work. The FOC will make minutes (redacted if necessary) of the FotC and other FOC meetings public unless otherwise stated in this document and proactively communicate about its activities with non-Members through its website, newsletter, social media, and other mediums, as appropriate. The Advisory Network will also be responsible for helping to ensure better dissemination of and participation in FOC events and processes

#### g) Peer Learning

At the next FOC Annual Conference following publication of these Terms of Reference and on an as-needed basis thereafter, Members will conduct a peer-learning session to share information about successes and challenges in meeting Member responsibilities, noting the commitments made by Members and the principles set out in the Tallinn Agenda and the San Jose Statement. A public statement will be made available after the session. Minutes will not be published unless decided otherwise during the session.