Internet Governance Mechanisms: Questionnaire

This report provides a summary of the responses of WGIG members to the questionnaire. It should not be taken as a definitive view of the WGIG. It is a preliminary reflection of responses from WGIG members and is to be seen as a work in progress. The WGIG will define its common position at its last meeting, taking into account the public responses to the questionnaire and discussion at the open consultation on 14 June.   The responses encompass a broad cross-section of opinions held among WGIG members. It does not attempt to weigh the various opinions and considers each of them to be of equal value. Furthermore, the report does not attempt to represent any one position as being that of the WGIG as a whole, nor to give a sense of the direction in which the WGIG might be heading.

Compiled Questionnaire Results from WGIG Members (1 June 2005)

This report is a preliminary reflection of responses from WGIG members and is to be seen as a work in progress rather than a definitive view of WGIG opinions. Nevertheless, the responses encompass a broad cross-section of opinions held among WGIG members. The report tries to capture the full range of positions expressed by WGIG members and attempts, whenever possible, to group them into different categories. It does not attempt to weigh the various opinions and considers each of them to be of equal value. Furthermore, the report does not attempt to represent any one position as being that of the WGIG as a whole, nor to give a sense of the direction in which the WGIG might be heading. However, it notes that in some instances there seems to be an emerging convergence of views.

It is to be understood that the WGIG will define its common position at its last meeting, taking into account the public responses to the questionnaire and discussion at the open consultation on 14 June. This paper aims to stimulate this discussion.

Process/Function 1 : "Forum function"

The WGIG identified many broad public policy issues or emerging issues that are cross-cutting or multidimensional and that merit being addressed. However, it noted that today's distributed governance architecture includes many public and private sector arrangements dealing with different aspects of Internet governance, but there is no existing forum in which the global community as a whole can address these issues that affect more than one institution. The group therefore discussed the desirability and feasibility of creating a new body or arrangement to address these issues.

1.   Is there need for an additional body?

There is an emerging convergence of views amongst WGIG members that there would be merit in creating some sort of new space or arrangement (hereafter described as a 'forum') to address Internet governance issues. This forum is envisaged as operating broadly according to the WSIS criteria of transparency, democracy and with the full participation of all stakeholders. The nature of this forum, as envisaged by different WGIG members, does not emerge fully in answers to this question alone so that this brief summary also draws on the overall questionnaire responses, in particular those in response to the questions relating to

the oversight function and the need to coordinate activities between existing institutions.

There is no common view of what the nature of the proposed forum should be and there is a wide spectrum of opinions, ranging from a very loosely structured discussion forum to a formally appointed 'council' with a very wide range of functions and oversight responsibilities, with some preferring to see a 'two tier' combination of both. There is a range of views concerning the possible functions of the forum as follows.

Discussion function
Essentially all responses envisage, as a minimum, the need for a forum, meeting annually or possibly more frequently, which has an open and inclusive membership. It would provide an opportunity for international discussion of Internet-related public policy issues which are novel or which span across areas for which other existing organisations are responsible. Some have suggested that its functions should be limited to discussion of public policy issues only, others that it could commission reports and make recommendations on which other organisations could act.

Policy Direction and Oversight function
Some responses express the need for a group with a wide range of oversight functions ranging from general policy recommendations to oversight of some specific Internet related matters such as the DNS, IP numbering and root server systems. Some responses envisage that government oversight functions should be focused on critical Internet infrastructure such as administration of the root zone file and security issues and/or in areas generally relating to public policy issues. Some responses envisage a multilateral group which would take over the role of the US Department of Commerce (DoC) in relation to ICANN .

A number of responses envisage oversight functions being carried out by a reformed or 'evolved' Government Advisory Committee of ICANN (GAC), others would prefer the GAC to be replaced by another group.

Co-ordination and facilitation function
Some responses see a requirement for the forum to pool information about the activities of other (existing) organisations and identify possible overlaps and, especially, gaps in areas where public policy development is required. Responses cover a range of models for relationships with existing bodies with some suggesting these should be informal or distant, while others envisage a more formalised advisory and co-ordination role, with close co-operation.

Some see a possible role as being to provide non-directive advice on best practice, similar to that played by the OECD for its members. The nature of its activities could range from discussion of issues to negotiation of binding treaties where there is consensus to proceed on that basis.

One suggestion is the need for a 'one-stop-shop' dealing with Internet governance matters, especially to meet the needs of developing countries.

2.   What functions should it exercise?

a) *Create a space for a multi-stakeholder discussion forum?*

There is broad agreement around the need for a discussion forum, emphasising the need for this to be genuinely multi-stakeholder, but with some expressing

reservations about the implications of language used to describe such a forum (as in, for example, use of the term 'body'). Some think it is not appropriate to establish a new office/agency or to have a long term mandate where initiatives may be relatively short term.

Noting that some would want to see some or all of the wider functions, as listed below, a widely held view seems to accord with:

> " (a forum) should facilitate discussion between various stakeholders. Discussion should be aimed at: a) building awareness about various aspects of IG; b) developing partnerships between stakeholders; c) harmonising and co-ordinating IG initiatives; d) identifying issues and areas for necessary policy initiatives, including international regulations ("policy incubator function")."

b) Give policy direction?

There is broad but not universal agreement that the forum should play an agenda-setting role, and it could give policy direction, but some believe the emphasis should be in the nature of guidance only, one example being the OECD model. Some responses prefer the term 'general policy recommendations' rather than 'policy direction'. Others believe it should provide authoritative policy direction.

c) Any other function?

Some take the view that functions should be limited to the above but others support the view that the forum should also provide some degree of co-ordination between related international organizations and institutions.

Other functions that are suggested (with varying levels of support) include:
- acting as an oversight body for ICANN (noting also that some consider that a forum is not suited to this function);
- having the capacity to set up working groups as necessary to deal with specific issues;
- publishing analyses and recommendations, including policy recommendations;
- analysing the interrelations between decision-making bodies;
- a clearinghouse for issues/complaints;
- promotion of public discussion in relevant issues and the adoption of agreed principles (transparency, openness, participation,….);
- to facilitate bringing national decision making in line with international decision making;
- foster issues such as capacity building, multi-lingualism, reduction of access cost for developing countries;
- pooling and disseminating information on Internet governance issues and activities.

d) Be a combination of the above?

There is wide support for a forum with combined functions. One wider issue is raised by the comment:

> "… are we talking about a new body that would focus only on IG, or are we talking about a body with a broader 'global information society' mandate that would also do IG? … There are strong arguments for both configurations that need to be assessed on a comparative basis."

3. What kind of public policy issues should it address?

a) *All issues related to the Internet?*

There is wide support for a forum to consider a wide range of issues, up to "(a)ny issue brought before it". Some think that issues to be considered should be limited to political or development issues, or to issues that do "not fall squarely under other organizations' mandates".

b) *Only issues outside the scope of existing organizations and institutions?*

Some agree with this view. However, a broadly held view is that the forum should not be limited to issues outside the scope of existing institutions.

4.   Where should it be anchored?

Opinions are divided between the forum coming under the mandate of the United Nations, or being 'free standing'. Some expressed caution over United Nations affiliation due to concern about coming under "some subordinate existing body" and the need for a genuinely multi-stakeholder and equal partnership approach. Others believe that the United Nations, as an established, recognised and global organisation, would facilitate the establishment and operation of the new forum. Some responses suggest that the forum be established by, report directly to, or be linked to, the office of the Secretary General. The range of options suggested include:
- anchored in the United Nations;
- "… placing it under UN auspices would only be desirable if very strong and clear commitments and protections are built in with respect to the roles of the private sector and civil society";
- "It should be an independent body, with an independent secretariat. Very lightweight";
- "Should operate independently, but drawing its mandate from the UN."

5.   How should it be financed?

There is no shared view of this. Several responses emphasise the need for a 'lean', low cost model. It is noted in several responses that if it were to be placed under the United Nations, support could include some use of facilities of the UN (or of an agency such as the ITU). One response emphasises that such a forum should not create a need for a new tax or special assessment.

Options suggested for financing (with varying levels of support) include:
- acquiring an appropriate or relevant generic or sponsored TLD (gTLD or sTLD);
- registries and registrars throughout the world "as their duty to the International Internet Community";
- "all beneficiaries and bodies involved in the Internet administration field";
- donations from companies or international organizations;
- membership and/or stakeholder funded;
- UN budget;
- government and corporate contributions "according to an equitable formula";
- "(i)n the same manner as the WGIG";
- a combination of "core funding and activities funding", the latter generated by stakeholders with an interest in "putting a particular issue on the agenda".

6.   How should it be structured?

No single structure emerges from the responses and to some extent at least the type of structure preferred by particular respondents is determined by the answers given to 2 above. The options presented include the following structures:

- a two-level or two-layer structure, with a more or less open forum level with representatives of governments, the private sector, civil society, academia etc to discuss policy issues and an operational level with executive or 'board/council' type functions and a more limited or selected membership based on appropriate balancing criteria;
- a two level structure with an intergovernmental Council having executive authority and including representation from other stakeholders and key organizations to provide policy direction and oversight, and a multi-stakeholder committee to undertake coordination and make recommendations to the Council.
- a simple single level forum structure which is open to any group interested in a (set of) issue(s);
- a one layer multi-stakeholder structure;
- a representative council or advisory board with limited and carefully selected and rotating membership, based on stakeholders and/or relevant institutions, regional representation, 'north/south' balance etc (described by some as the 'WGIG model');
- "variable geometry" or "differentiated architecture" which allows for different rules and procedures for different roles, functions or phases of operation;
- "the (multi-stakeholder) model implemented by the Steering Committee of the Internet in Brazil" (which provides advice as well as oversight and coordination functions).

There are a number of suggestions that it should be supported with a small secretariat and one suggestion that: "The body should have legal personality with immunity in international law."

7.   What would be its relationship with existing organizations and institutions?

Responses to this question are highly varied and in one case it is noted as a "contentious" issue. It is noted in one response that:

> "... careful consideration should be given to the relation of this new body with other new bodies on ICT for Development that are in the pipeline. For instance, the "Global Alliance" and the WSIS follow-up mechanism."

Several responses emphasise the need for the forum to be advisory and independent of, or complementary to, existing organizations and institutions, and the need to pool information, identify possible overlaps and propose solutions for overcoming them, and suggest and organise joint initiatives.

On the other hand, there is an emphasis in some responses on the need to provide oversight and direction to, and co-ordination of, other organizations involved in Internet governance, and anticipate the discussion of Process/Function 2 below. For example:

> "Work as part of a relatively decentralised structure to provide policy direction, legitimacy and policy implementation oversight for organizations involved in Internet management. (Root servers system, DNS , IP addresses etc)."

and

"…. A MoU/Agreement should be signed between (the forum) and ICANN after termination of ICANN's MoU."

Process/Function 2 : "Oversight function"

The WGIG discussed whether there was a need for enhanced public sector oversight of the management of the Internet's logical infrastructure (including the domain name system, IP addresses, and the root server system). The second process/function below addresses the desirability and feasibility of new oversight arrangements. These questions are not intended to prejudge the issue, but simply to solicit views on this area. In addition, the questions do not prejudge whether any such oversight should be exerted by the body or arrangement referred to in the first cluster of questions, or whether this function would be best carried out by under a separate arrangement.

1.   When talking about oversight, what functions do you envisage (simple audit function, arbitration, policy direction or any other function)?

A number of responses indicate that oversight is broad and inclusive of any function as needed or relevant to the issue being discussed, e.g.: "(N)o function should be left out *apriori*." Many responses indicate that a simple audit function and public policy direction ("exercised as deftly as possible") are important while some are cautious about the arbitration function, one noting that "conflicts among private contractors are a matter for the courts."

Some responses emphasise that oversight functions need to be defined precisely and narrowly, and to be "minimal and non-intrusive", with one response noting that unless they are limited, some oversight functions would require "a robust structure with considerable in-house expertise". Another response indicates that 'oversight' should mean "from 50,000 metres".

A number of responses envisage a need for some form of oversight (some emphasise that this would need to be narrowly defined) which includes multilateral (i.e., government) participation, involving at least audit and reporting functions and some policy direction, over a core set of functions carried out by ICANN/IANA including some oversight of changes to the zone file, in particular where a re-delegation of responsibility for a ccTLD is involved.

Some responses assume that the 'forum' discussed in Process/Function 1 would assume a direct oversight role of the DNS, IANA and root server functions and indicate a need for a formal relationship to be established between the body responsible for the oversight function and ICANN.

2.   Should the GAC be transformed and take on some oversight functions?

Responses are fairly evenly divided between "Yes" and "No" with some "No" responses observing that the GAC should be replaced by, or subsidiary to, the new forum proposed in some responses to questions under Policy/Function 1, some noting that this could include a form of multi-stakeholder representation.

Other responses suggest that a reformed GAC could provide, as one puts it: "the necessary diversification of governmental input to ICANN". Some note that the

present advisory function of the GAC is useful and transformation or "evolution" could be a useful way forward, one response noting that: "… it would be simpler to transform the GAC than to establish a new body."

3.   Should the GAC be replaced by another body?

Some responses specify that it should be replaced, as noted under 2 above and one notes: "The GAC should be simply replaced with a sovereign structure". Other responses say "No" but recognise a need for the GAC to be reformed or 'evolved'.

4.   Should a governmental oversight body keep an advisory role over some of ICANN's activities?

A number of responses are in favour of governments providing some form of advice to ICANN, either through the GAC (reformed as necessary) or through (one of the options for) the new proposed forum. Some responses indicate that the forum would not be suited to this role. Some believe the functions of a reformed GAC should, in addition to providing advice, include providing policy direction and oversight. Some responses note that there should be a separation between oversight of precise and limited functions of ICANN and advice on more general public policy issues.

5.   Should any post 2006 governmental oversight be exercised within the UN framework?

Responses to this question largely reflect the range of opinions expressed in answers to Q4 under Process/Function 1. Where a UN link was seen as appropriate for the new body, the answer is generally, "Yes". Some responses see a reformed or evolved GAC as having a UN link and/or support, others as having the GAC replaced by a body linked to the UN. Some responses were, "No" with some specifying that that an independent framework is preferred.

One suggestion is: "some sort of global MOU with the US government playing a custodial role within rules."

Process/Function 3: Functioning / coordination of existing institutions

The WGIG felt that there was a need to improve the coordination among and between all organizations and institutions dealing with Internet issues. The third process/function refers to the institutions in their managerial functions only and is not intended to include any form of intergovernmental cooperation or multi-stakeholder involvement.

1.   What improvements in their functioning should existing institutions make to bring them more in line with the WSIS principles?

All responses see it as being desirable or necessary for existing institutions to undertake some degree of change towards: "(opening) themselves to a 'meaningful' participation of all the stakeholders", especially with respect to participation by developing countries, for example:
>   "… the recommendations made in the WGIG assessment papers should be considered to improve the existing institutions."

On the other hand, one response notes:
>"Several institutions may need specific improvements in certain areas such as transparency and improving the mechanisms for input by non-members. However, this does not mean that all existing institutions need to become multistakeholder or need to change their operating principles."

Another observes:
>"... the 'new entity' would undertake horizontal assessments and engage in dialogue … to encourage improvements, (with) emphasis on transparency, accountability, and multistakeholder inclusion. Private sector mechanisms are more complicated, but in a number of cases the same criteria would be appropriate. Multilateral inclusion would be an additional variable where applicable".

One suggestion is:
>"… the use of an online medium for the management of IG-related issues. One could consider the introduction of an IG Mark-up Language, which would help in the exchange and management of IG-related issues."

2.   How can their activities be better coordinated?

Most responses see the proposed new forum as providing a coordination function or opportunity, for example:
>"The multistakeholder forum mentioned in section one would be an effective means of encouraging coordination and exchange of information where appropriate and needed."

Other suggestions include:
- "Participation in periodic forums with all participants may be helpful";
- "By the oversight of an OECD type multi-stakeholder body within the UN system";
- "There is no need to coordinate where there is no need to coordinate. Hence, the 'new entity' should first identify areas where it is demonstrable that the lack of coordination is problematic or where there could be value-added";
- "Bottom up approach with strong implication at national level."

And another observes that may be possible to "use existing models and mechanisms" (see below).

3.   *Are there existing models of inter-agency cooperation that could be followed?*

A number of responses indicate that there are no good existing models, for example:
>"Unlikely. This is to find a originally creative solution."

However others made the following suggestions:
- "The existing Four global alliances under the United Nations umbrella: Global AIDS Alliance; Global Alliance for Diversifying the Science and Engineering Workforce; Global Alliance for TB Drug Development and Global Alliance for Workers and Communities."
- "UN ICT Task Force (since it contains members from the different sectors)."
- "… ICANN 1.0."
- "… an agency that is run on the basis of the same rules as the WGIG should be set up" (suggested several times);

- "establish joint bodies/committees, for example: the IAEA/FAO Joint Division for Dissemination of Nuclear Technologies that Assist Agriculture, the ILO/WHO Committee on Occupational Health, the Joint FAO/WHO Expert Committee on Nutrition, etc.";
- "establish IG liaison officers in various agencies";
- "encourage two or more agencies to sponsor negotiations and the adoption of international legal instruments";
- "use existing inter-agency coordination mechanisms";
- "Information Society Ministerial meeting held jointly with leaders of the ICT industry circles";
- examples of "newer models of … international multi-stakeholder co-operation" for example in the climate control arena;
- "the OECD model".

4. Should any existing institution be given the role of lead agency?

Generally, responses give an unequivocal "No". One suggestion is that the ITU should be considered as an alternative to the proposed forum. Another response suggests that an existing agency could act in a convenorship role, and another that:

> "… existing institutions would be given lead roles in areas of their specific competence. For example, WIPO is expected to lead the discussions on Internet-related IPRs."

Process Function 4: Functioning / coordination at the national level

The WGIG noted that international coordination needs to build on policy coordination at the national level. Global Internet governance can only be effective if there is coherence with national level policies. The fourth process/function refers to this "fit" between national and global arrangements.

1. How should Governments bring their national decision-making process in line with international Internet governance arrangements?

There is a wide range of responses to this question reflecting different interpretations of the question and, as one response notes, that:

> "Governments have different legal traditions and institutional arrangements, so there is no obvious "one size fits all" answer to this question."

A number of responses suggest that governments should operate at the national level with adherence to the WSIS principles and requirements, some expressing a need for multi-stakeholder involvement in national policy dialogues. Others suggest that, at the international level, government representatives should be involved in international Internet governance forums. It was noted by some that this could feed back into processes at the national level.

2. What successful multi-stakeholder models could be recommended as an approach to be followed?

Some responses note that there is no single or generalizable model but others suggest that the Brazilian, Canadian and Kenyan examples could be adopted elsewhere. Other suggestions of examples include:

- the UN ICT Task Force;
- the ITU model;
- the WGIG;
- the G8 Dot Force;
- ICANN and the IETF;
- Regional Internet Registries (RIRs);
- climate control treaties and conventions.