

Building an Internet Governance Forum

2 February, 2006

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The United Nations is building a new platform for the discussion of global Internet policy. It is creating an "Internet Governance Forum" (Forum). The Forum will serve as a venue for continued discussion of the Internet policy issues that the World Summit on the Information Society (WSIS) raised but did not resolve. It will also provide a vehicle for responding to new, emerging issues.

This discussion paper offers recommendations in advance of the February 2006 Geneva consultations on the Forum. The paper begins by proposing design criteria for the Forum. Using those criteria, the paper then proposes specific organizational structures and processes for the Forum. Finally the paper concludes by suggesting three topics that the Forum might take up in its initial meetings.

Our position can be summarized as follows. The Forum has the potential to be a constructive way to involve all relevant parties in global governance of the Internet. But its success will depend on the degree to which it can attract cooperation and support from the private sector and civil society. If governments insist on subordinating the participation of other sectors, that cooperation will not materialize. For the Forum to achieve its potential, its design must embrace innovation. We see the Forum as an expert preparatory body. As such it will employ consensual deliberation, accurate information and expert analysis to develop non-binding recommendations that can be inputs to other, more formal decision-making forums. Participants in this expert preparatory body must have equal status. In this way, the IGF will embody effective multi-stakeholder governance.

Design Criteria for the Forum

The objectives of the Forum are clearly set out in paragraph 72 of the WSIS Agenda. The Forum provides a platform to:

- Discuss public policy issues... of Internet governance...
- Facilitate discourse between bodies dealing with different cross-cutting international public policies regarding the Internet and discuss issues that do not fall within the scope of any existing body
- Interface with appropriate inter-governmental organisations and other institutions on matters under their purview

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- Strengthen and enhance the engagement of stakeholders, especially LDCs
- Identify emerging issues
- Help to find solutions to the issues arising from the use and misuse of the Internet

But the WSIS Agenda contains little about how to implement these ideas. It said only that the Forum should be “multilateral, multi-stakeholder, democratic and transparent,” “meet periodically” and have a “lightweight and decentralized structure.” Using those parameters, the involved community must now agree on an institutional design that can meet its stated objectives.

In our view, the Forum’s design must meet three basic criteria: a) It must be as open as possible and give all stakeholders equal status; b) it must be able to respond flexibly to a dynamically changing environment and avoid artificial, politically motivated limitations on the scope of its work; and c) its products must be used in other forums where global Internet governance issues are being discussed.

Openness and Equal Status

Openness and equal status for all stakeholders is an absolute necessity if the Forum is to succeed. It is required by the Forum’s need for legitimacy, its need for expertise, and by the absence of any compelling reason to limit participation.

Legitimacy. The Forum must be legitimate. This means that it must permit all stakeholders who see their well-being affected by its deliberations to express their views and participate fully. If the Forum is not perceived as open to all who are affected, its products will be ignored or actively undermined by those who felt excluded. Ultimately, the Forum will have no power except the power to persuade. Soft power of this sort thrives on inclusiveness, and is thwarted by giving some groups superior status. In particular, we would warn against efforts to create status- or sector-based quotas and limitations on participation. Non-governmental participants in the forum’s plenary sessions should be accredited as individuals, and everyone should have the same status in its open deliberations.

Information and expertise. The Forum must be well-informed. Therefore it must be as easy as possible for people with knowledge of the relevant technical, operational and policy areas to enter into its discussions. Because of the complexity of Internet issues and rapid change in technology, there is never a fixed, well-defined set of organizations or individuals who can be relied on to hold most of the relevant expertise. Nor can we know in what sector or combination of sectors the required expertise will be located. Sometimes, governments may know the most; at other times civil society; in other cases the business community. The simplest solution to that problem is to make access and participation as easy as possible. Anyone who should participate, *can* participate.

No reason to limit participation. The only valid reason to restrict participation is to ensure that decisions by authoritative bodies are accountable and that the group making them is authentically representative of the relevant public. But the Forum is not a rulemaking or negotiating body, nor is its purpose represen-

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tational. Its authority will come only from the persuasiveness of its proposals and analyses. If the forum is not acting as a binding, representative governing authority, there is no reason to restrict its membership to governments, or to privilege governments in its operations.

Openness on the other hand imposes important constraints on the design of the institution. Voting by open groups must be avoided as much as possible, because voting gives authority to numbers. The Forum's output should be based more on the quality of its ideas than on mere numbers. One stakeholder group with fewer numbers should not feel threatened by another with greater numbers. The predominant means of decision-making in international organizations is consensus and this should prevail in the Forum as well. This also means that there must be carefully defined criteria to identify and exclude disruptive participants, while instituting procedural safeguards to make sure that exclusion is not abused by governments or businesses attempting to silence critics.

Scope

The Forum must be able to deliberate on any and all Internet governance issues, especially in ways that address gaps, overlaps and linkages across existing international regimes such as ICANN, EU, WIPO, ITU, UNESCO, the Cyber-crime Convention, and International Trade Law. The Forum needs to provide an arena where the world's Internet users, suppliers and public authorities can adopt an independent, reflective stance toward all of the relevant international arrangements. That was a key rationale for creating the Forum in the first place. The need for addressing linkages was first articulated by our report, [Internet Governance: The State of Play](#) (September 2004), and articulated further by the WGIG Report (July 2005). Thus, Forum deliberations should be viewed as a supplement to, and reflection upon, other organizations, conventions, or regimes in communication-information policy. Duplication of work should be avoided, but "duplication" must not become a straitjacket on the Forum, or an excuse for interest groups with privileged positions in one international organization to prevent critical assessment of a policy problem by external parties. Digital technology and convergence makes nearly all communication-information policy issues interdependent. If any topic currently touched on in some way by an existing international organization is considered "off limits" to the Forum, the Forum will be paralyzed at birth. Just as no existing international organization should be prevented from discussing topics taken up by the Forum, so the deliberations of the Forum should not be subject to limits based on turf protection by other international organizations.

Results Used in Other Organizations

The Forum is, in effect, a technical preparatory body in the context of other, more authoritative, places. It adds value by bringing broader consultation and greater expertise to bear on issues being discussed elsewhere, as well as mobilizing facts and analysis that will clarify the issues. The IGF agenda therefore needs to be recognized as performing this function. The results of its deliberations need to be placed before the other bodies. Consensus reached in the Forum should be considered an indicator of how issues can be resolved in other forums.

Specific proposals for Structure and Process

We now propose a design that will meet the criteria described above. We propose a bottom-up, relatively open working group formation process as the main driver of the Forum's agenda and reports. The structure and process set forth here are designed to institute checks and balances among meeting participants, the Chair/Secretariat and the various stakeholder groups in order to minimize fruitless power struggles among them. It is intended to take advantage of the flexibility and low overhead of unrestricted participation while also providing the efficiency and accountability of a smaller, quasi-representational group to make a few binding decisions.

There should be four basic parts to the Forum (see Figure 1):

1. A Secretariat supporting a Chair.
2. A Bureau (a small, quasi-representational decision making structure)
3. A Plenary (regular open meetings, similar to the WGIG consultations, involving both physical and online synchronous communication).
4. Working Groups. Actors accredited in the Plenary can propose and, if approved, run Working Groups

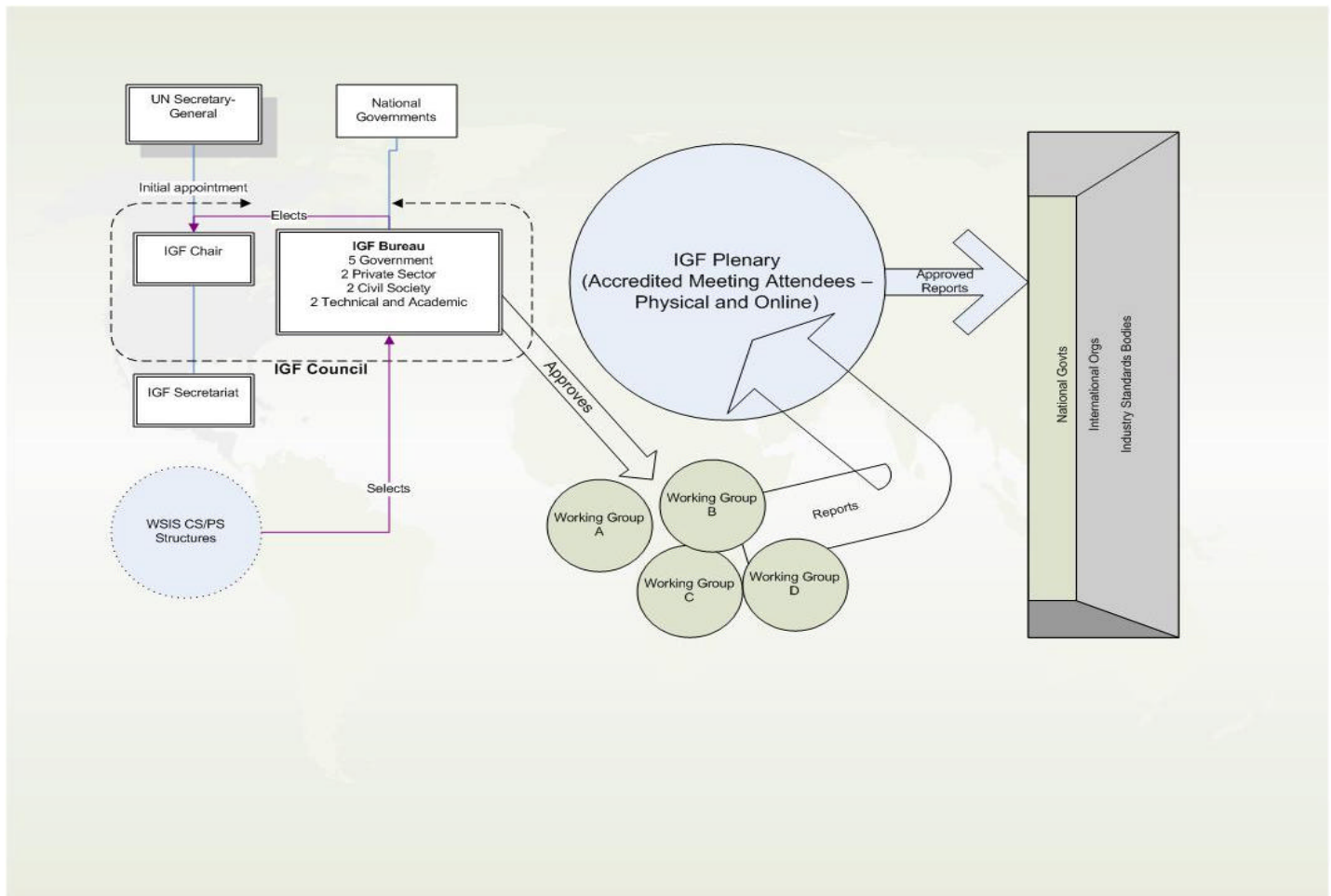
Chair and Secretariat

The Chair presides over Plenary meetings, ensuring that meetings follow the prescribed agenda and recognizing speakers and motions. International organizations all function with secretariats and the Forum should as well. The Secretariat handles administrative and logistical processes associated with Plenary meetings, Bureau meetings, the formation of Working Groups and the publication of reports and Proceedings. Beyond these organizational and administrative tasks, effective organizations have secretariats that perform substantive functions in order to facilitate discussions by providing a common basis. They thus prepare agendas, and discussion papers that summarize the issues that are expected to be considered, previous agreements and possible lines of agreement. They also arrange coordination with other international organizations.

Secretariat services for international forums in recent times have been provided by international organizations, but since the IGF is a new kind of deliberative body in international regime creation, its secretariat should also be innovative. The Secretariat should itself be multi-stakeholder. Although the central core should be provided by the United Nations with regard to administrative and organizational functions, stakeholder groups, especially the academic community, should be considered part of a "Distributed Secretariat" to the extent that they facilitate forum activities and are willing to undertake the substantive support functions. They should be formally recognized as such. In summary, the Secretariat:

- Prepares Proceedings reports.
- Administers the web site and public communications of the Forum.
- Handles logistics of the online and physical meetings.
- Receives nominations for Bureau members.
- Receives applications for the creation of working groups
- Organizes and services meetings of the Bureau.
- Prepares agendas based on working group activities.

- Prepares basic discussion papers for Forum meetings and working groups.
- Coordinates with other international organizations through their secretariats.



The IGF Bureau

The Bureau is a Council of 12 people, with the following composition:

- 5 representatives of governments, one from each UN geographic region
- 2 Private Sector nominees
- 2 Civil Society nominees
- 2 Academic and Technical nominees
- The IGF Chair

The Bureau makes the following decisions:

- Elects the Forum Chair (after the end of the initial appointment term by the UN SG)
- Sets the agenda for Plenary meetings. Note, however, that the agenda is not set arbitrarily through private discussions, but is driven by Working Group proposals and products.
- Reviews and approves the Proceedings reports submitted by the Secretariat
- Approves or rejects applications for forming working groups.

The Secretariat might pre-screen Working Group applications to ensure compliance with basic requirements. In order to foster openness and diversity, a threshold might be set; e.g., only 6 members' approval would be required to create a Working Group (although tougher standards would be set for approving its reports).

The Plenary

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The Plenary is composed of individuals and government delegations who have been accredited to participate in synchronous (i.e., real-time) Forum meetings. All non-governmental participants are accredited as individuals, not as representatives of organizations, businesses or sectors. For non-state actors, accreditation simply ensures that participants are who they say they are and can be readily identified in terms of residence and nationality for accountability purposes. Accreditation of this sort also allows participation rights to be withdrawn when individuals engage in disruptive or illegal activity. Governments (member states) would designate their representatives in the traditional way, and be identified as part of a governmental delegation. All participants, however, would have the same status with respect to right to speak, and to form or participate in working groups.

The Forum should have Plenary meetings once or twice a year. Online tools should permit accredited attendees to participate synchronously whether they are physically present or not. Synchronous meetings should always give equal status to physical attendees and online attendees. The Plenary has the following role:

- It deliberates and discusses general issues and Working Group products, guided by the Chair and the Agenda;
- Any accredited participant or group of them can petition the Bureau to create a Working Group
- It reviews, discusses and approves or refuses to approve Working Group reports. Approval is based on "rough consensus" called by the Chair after sufficient deliberation. Approved reports are issued and publicized as IGF reports.

Working Groups

Working groups identify an area of Internet governance they wish to investigate, and develop a report on. The right to submit proposals for working groups is limited to accredited Plenary participants. Proposals are submitted to Chair/Secretariat by interested parties along with their suggestions for co-leaders, with one facilitator being from the government sector and one from nongovernmental sectors. The Secretariat might also issue an open call for Working Group facilitators upon receipt of a valid application. The Bureau approves WG proposals and appoints the facilitators. The bureau should ensure that the facilitators are not "like-minded" but regionally and also politically diverse. There could be different types of WGs, each with different approval criteria, but that is a detail that can be left to a later discussion. We would suggest a simple majority vote as the threshold of Bureau approval of WGs, but of course it would always be preferable to gain agreement of all Bureau members. Once approved, WGs operate on their own, primarily through online means, and bring their work product to a Plenary, through the Secretariat. The Plenary debates and discusses the WG report in the context of its agenda. The Chair moderates discussion seeking to find a rough consensus on it. Only WGs can modify reports. If the report achieves consensus, it is published as a Forum Report; if not, it goes back to the Working Group for further work.

Bootstrapping Process

To get things started, the UN Secretary-General should appoint an initial Chair and a Secretariat and (with widespread consultation) the initial members of a

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Bureau. After the fixed initial term period (which should probably be no more than a year), Bureau members should be selected by the respective stakeholder groups. The Bureau members in turn elect the Chair. Civil Society, Private Sector and Technical/Academic representatives can use strengthened and revitalized WSIS structures to select their nominees. The initial period, during which the representatives were appointed by the UN S-G, would give them an interval to formalize their procedures. Governments can use their regional organizations to select their representatives.

A Note on Online Participation

Because its subject matter is the Internet, and because the Forum is explicitly charged to improve the inclusiveness of international deliberations, the Forum is the ideal setting for the serious deployment of online collaborative technologies. As noted before, Plenary sessions should institute online participation into their process fully. Working Groups should rely primarily on online methods. We understand fully that this will require significant cultural and institutional changes in the UN. Like other members of civil society and the broader Internet community, the partners of the Internet Governance Project will be monitoring the Forum's activities closely to see whether an appropriate commitment to new methods is being made. The IGP also offers to implement online collaborative technology on a trial basis at the initial meetings and consultations of the Forum.

A Policy Agenda for IGF: Three Suggestions

Another critical decision for the Forum is which topics or issues it will concentrate its activities on. We propose the following three as priority items that could form the basis of the initial working groups in the Forum.

Spam

This is almost universally perceived as a problem by the world's internet users and service providers. It is recognized as the type of problem that has technical, business, and legal dimensions, requiring a fully multi-stakeholder approach. It is also an issue that no existing international venue can claim to "own," thus making the new Forum an ideal venue for discussion and policy development.

Internet Free Expression

The Internet's growth has derived much of its strength from its openness. This, however, has raised real problems in determining how to reconcile free expression, as guaranteed in the Universal Declaration on Human Rights, with other regimes, such as intellectual property, crime control and security. Absent an agreement on the principles and norms involved, these regimes will increasingly come into conflict. National governments' attempt to resolve issues unilaterally can threaten the openness and stability of the Internet itself. For example, the controversies surrounding Yahoo and France regarding the display of Nazi memorabilia, or Google's acquiescence in censorship of search terms by various countries has led to calls for extensive regulation of Western Internet companies' relationships with foreign countries. This is an area where civil society sees a pressing need for action, and which also has no real institu-

tional home among international organizations or regimes. If the debate is backed by solid research, it can lead to agreements that can be accepted by all stakeholders and can pre-empt future problems.

Principles for the Coordination and Management of Internet Resources

The WSIS Agenda called for “the development of globally-applicable principles on public policy issues associated with the coordination and management of critical Internet resources.” We believe it is essential that the development of these principles be subject to the widest possible public input and in particular take into account the opinions and interests of civil society and private business as well as governments. Therefore we think the Forum is an appropriately neutral venue for beginning the discussion of these issues. Results could be transmitted to ICANN, ITU and other more authoritative venues as a guide to further decision making.

Many other issues could be – and will be – suggested. By not mentioning other issues we do not wish to suggest that they are not important or that they should not be taken up by the Forum. We are simply expressing our own priorities. One of the virtues of a more open working group creation process is that it can respond to multiple demands for topics by diverse groups with different agendas.

Conclusion

This paper set out three design criteria for the Forum: a) It must be as open as possible and give all stakeholders equal participation rights; b) its deliberations must be wide-ranging and resist politically motivated barriers to discussion; and c) its products must feed into other, more authoritative Internet governance forums. We proposed a structure and process for the realization of these objectives. We also set out three policy problems that exemplify the kind of issues the Forum should take up: spam, Internet free expression, and public policy principles for the coordination of Internet resources.

The Forum’s implementation must reflect a clear commitment on the part of the UN to innovate in response to change. If it succeeds in doing that, the Forum can maintain the momentum and good will created by the more inclusive aspects of the Working Group on Internet Governance. If it does not, the Internet, and the rest of the world, will pass it by.

The Internet Governance Project (IGP) is an interdisciplinary consortium of academics with scholarly and practical expertise in international governance, Internet policy, and information and communication technology. To download its papers or to learn more about IGP, go to

<http://www.internetgovernance.org>