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**South Centre**

**WGIG REPORT: COMMENTS AND ELEMENTS FOR A DRAFT DECISION ON  
INTERNET GOVERNANCE**



**WGIG Report: Comments and Elements for a Draft Decision on  
Internet Governance**

**WSIS II, Tunis, November 2005**

**Presented to: WSIS Secretariat**

**10 August 2005**

### **Comments on WGIG Report and Elements for Draft Decision**

#### **Preamble:**

One alludes to the useful work done by the Working Group on Internet Governance (WGIG) in pursuit of the mandate given by the WSIS Summit. While it represented a novel undertaking in the UN System and an advance on multilateral, multi-stakeholder processes, there were three (3) approaches that, had they been used, would have gone further in conforming to the WSIS Principles, especially ‘representative’ and ‘multi-stakeholder’. These approaches are:

- It did not reach broadly and deeply into developing countries to involve all their stakeholders, mainly their private sectors and Internet communities, especially ISPs.
- It appeared to be not well coordinated with the work done in the regions and by the regional commissions. It is difficult to find common points of reference for analysis and recommendations from a preliminary reading of their various reports.
- While the Papers and exchanges contributed to broadening the understanding of the issues, too many different papers and divergences of views on key issues diminished the sharp focus required for examining the on-going and transitional processes of Internet Governance. The process might have benefited from utilizing the tried and tested method in the Internet community, whereby a single coherent Request for Comments (RFC) document often forms the basis for developing recommendations. This format lends itself to clarity, relevance, adequacy and voluntary standards.

The challenge now is to find points of convergence, relevance and priority for the Second Phase of the Summit to consider and take decisions as appropriate. It is to be noted that the process led by ICANN and all the Internet's public and private bodies will continue to carry out their objectives and work programmes. ICANN's Strategic Plan of 2004 -2005 to 2006- 2007 with its benchmarks, and the most recent policy determination by the United States Federal Communications Commission (FCC), that DSL cable modem service is an “information service” and not a “telecommunication service” are illustrations. The latter serves as an example of the influence of public policy on the continuing dynamic evolution of the Internet, its uses, its governance, and its impact across all sectors of society and interstate relations.

The focus of the WGIG and WSIS process is on the key public policy issues that are central to the Internet architecture, the use of the Internet for social, economic, military and scientific research, its impact on other areas of activity, and what is referred to as ‘developmental’ aspects. The report is particularly weak on this last aspect. It offers very little that contributes to making the Internet either a powerful engine of development, a bridge to narrowing the so-called ‘digital divide’ or to increasing developing countries’ effective participation in Internet Governance. The proposals instead, are stuck in the hangovers of ‘technical assistance’ and ‘capacity building’, having become buzzwords with little content.

## Elements for a Draft Decision

1. *The WSIS Phase II, Prep Com Group of Friends of the Chair (GFC)* is preparing the political chapeau for the Summit. To date they have reaffirmed “the commitments made in Geneva and (the intention to) build on them in Tunis by focusing on Financial Mechanisms for bridging the digital divide, on Internet Governance and related issues, as well as on follow-up and implementation of the Geneva and Tunis decisions...”. There is some expectation that the political chapeau will not only reaffirm the WSIS Principles, but also agree on practical steps to have those principles shape attainable objectives buttressed by the necessary policy decisions and resources, especially on Internet Governance.
2. [Governments] agree that given the great and growing importance of the Internet based on the suite of non-proprietary TCP /IP protocols, as a global information and communication facility/infrastructure, transport and broadcast service, its continuing stability, reliability, security, interoperability, and open inter computing network connectivity must be safeguarded.<sup>1</sup> The decentralized and distributed implementation of the Internet’s technical system and its end-to-end principle should not be compromised.<sup>2</sup> There must be competition and choice.
3. The United States government is in the process of relinquishing the central and sole oversight role it played in the formative and evolutionary stages of key critical resources of the Internet. There is broad multilateral agreement that more appropriate governance principles and structures are needed to reflect the internationalization of the Internet architecture, its structures, interests of users and the impact across all spheres of society and countries. This is particularly so given the dramatic contributions by a host of actors, including software engineers and others in developing countries and transition economies. Today’s Internet is what it is in large part because of the hundreds of millions of users in these parts of the world, adding value by being in the ‘network of networks’.
4. The centerpiece of the WGIG Report is its recommendation for “the creation of a new space for dialogue for all stakeholders on an equal footing on all Internet governance-related issues”. There is however no common agreement on the form, structure and function of this ‘space’. Four proposals with a variety of organizational and membership roles now pose a challenge. Which, if any, provides the appropriate governance arrangement for the Internet and its use, based on the WSIS Principles? How will such an arrangement collaborate and function with the ongoing and transitional Internet and Internet Governance of the ICANN Internet community process? How will developing countries be able to manage such a variety of tracks?
5. The following discussion deals directly with some of these issues:

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<sup>1</sup> See Working Paper # 4 Rev. 1, April 2005, available from the South Centre.

<sup>2</sup> Ibid. Private communication re technical possibility of solutions other than the “single/unique name space which may be replaced by a regional or national DNS system according to agreed standards, giving consistent results”.

**A. *Issues relating to infrastructural issues and the management of critical Internet resources [WGIG Report]*<sup>3</sup>.**

6. The transition of the US stewardship over the unique Domain Name System and its numeric IP Addressing System and the administration of the Root Server System offers governments and their stake-holding communities opportunities to participate in the new international governance arrangements, especially as the Internet in all its aspects is evolving to meet the needs of diverse constituencies and users. Informed participation, reflecting the functional, geographic, multilingual and cultural diversity of the Internet at all levels of policy development and decision-making is underscored.

7. [Governments] agree that without prejudice to the integrity of the technical systems, entries and modifications to the root zone files, in particular, those that are within the sovereign jurisdiction of States will be managed accordingly. There is a strong shared interest in maintaining the reliability of Internet services by ensuring that alternative root systems incompatible with the technical architecture of the present unique domain name system are not deployed. The expansion of the numbers of root name servers will be a priority for deployment in developing countries and transition economies.

8. [Governments] will therefore take appropriate steps regarding delegations and re-delegations of their country code top-level domain names (ccTLDs) in consultation with the not-for-profit Incorporated ICANN and in accordance with the principles governing the processes. The US government, its agencies, ICANN and its relevant supporting organizations shall take the appropriate steps, in the context of the current transition process mandated by the US Department of Commerce and within the time frame ending September 2006.

9. The ICANN Board and its stakeholder bodies, in implementing its US Department of Commerce benchmarks will be guided by these decisions, consulting with all stakeholders to ensure that the policy, technical, administrative, operational and oversight functions are undertaken, building on the traditional principles and processes that have brought the Internet to its present stage. Governments and other stakeholders who have not been active participants in this process therefore have the opportunity to be fully engaged.

10. The critical core resources of the Internet Architecture are coordinated by ICANN, i.e. the allocation and assignment of three sets of unique identifiers of the Internet—domain names, IP addresses and autonomous system (AS) numbers, and protocol ports and parameter numbers. The relevant bodies, namely the four groups of primary stakeholders will need to be consulted in any transition process:

- i) gTLDs and ccTLDs registries that depend on the root to direct potential users to them,
- ii) Root name server operators that serve the root zone file,
- iii) Internet service providers (ISPs) and intranets that rely on the root to enable them to do look-ups on the TLDs, and
- iv) The technical communities that define protocols and standards affecting the root and its operation.

11. The future role of the not-for-profit ICANN and its IANA functions as well as its other Internet and Internet-related functions (policy, technical, regulation, administrative, dispute resolution and financing) remain to be spelt out. This must reflect the ongoing

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<sup>3</sup> This follows from the classification in the WGIG Report. For ease of cross reference, see page 5 of the Report.

implementation process of the US-ICANN Memorandum of Understanding, which will be reviewed in mid-2006. It is unclear whether the original objective of the ‘privatization’ of ICANN is compatible with the internationalization of the Internet and its governance. A start might be made with defining the meaning of, and the implications of different kinds of ‘privatization’. There certainly is a need for more **effective** consultations among a wider group of stakeholders, who in turn will be required to commit in a timely manner and to participate as informed partners. The reform of the Government Advisory Committee (GAC) must be a first priority or alternative arrangements must be made.

12. [Governments] and their stakeholders recognize that the reforms undertaken and in progress, by the ICANN-led Internet community are clearly insufficient to meet either its own principles, criteria or WSIS principles of effective, democratic, representative, multilateral, multi-stakeholder participation from all regions and sectors of society. Accordingly, they agree to convene in early 2006 a series of extraordinary consultative meetings, including electronic exchanges, to review, *inter alia*, ICANN’s Strategic Plan 2004- 2005 and 2006 -2007 and the US ICANN MOU benchmarks and the Decisions adopted at WSIS II. It is in this context that one might expect convergence of the central elements in the four (4) Models presented in the WGIG Report.

13. Would a ‘forum’, if agreed, be selected from among the biennial *ITU Telecom World Conferences*, the *World Telecommunications Standardization Assembly (WTSA)*, or *the ITU’s Fourth World Telecommunication Development Conference (WTDC-06)*, the highest policy-making authority at the International Telecommunication Union for development? The latter will take place in Doha, Qatar from 7th to 15th March 2006. There is also the 6th *Annual Global Symposium for Regulators (GSR)*, an open forum for dialogue between regulators and ICT Stakeholders dealing with several Internet public policy issues. It will meet in Tunisia on 14 -15 November 2005.

14. The organizational arrangements are left to be worked out in consultations led by the governments (of to be agreed) with the ITU SG, ICANN (incl. its community), UNESCO, the Regional Economic Commissions (in consultation with the relevant telecommunication agencies). We undertake to consult with our academic, for-profit, not-for-profit and Internet communities, in particular Internet Service Providers (ISPs), Internet Broadband Providers (IBPs), and Regional Internet Registrars (RIRs).

15. Priority will be given to “issues relating to infrastructural issues and the management of critical Internet resources”. Among the logical Infrastructure issues are the DNS (the technical and allocation aspects of *Internet Domain Names, Administration of IP Addresses*, the *Administration of Root Zone Files* and *Root Server Systems* the *Multilingualization of Internet Naming systems* and *Technical Standards*).

16. The Working Group in its Final Report did not include the following public policy issues as being among the thirteen (13) “highest priority” issues<sup>4</sup>. These are the *Physical Infrastructure Issues* such as, *Telecommunications Infrastructure, Broadband Access, VoIP, Peering and Interconnection, Spectrum* as well as *Technical Standards*. It is understandable that choices have to be made among alternative public policy issues to be considered at the Summit. However, these along with *Open Source*, the *Technical Standards of Intellectual Property, Quality of Service (QoS)*, and *Navigation Aids and Services* are also vital and critical elements in the Internet architecture and its governance. They are equally urgent and important for developing countries and emerging economies.

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<sup>4</sup> See Section III, paragraph 14 on page 5 of the WGIG Report.

**B. Issues relating to the use of the Internet, including spam, network security, and Cybercrime...and directly related to Internet Governance [WGIG Report]<sup>5</sup>.**

17. Governments note the several Internet-related policy issues identified that go beyond the strictly technical Internet architectural issues of design and implementation. Some of these issues influence and in turn are influenced by the specific characteristics of the technology and regulatory framework. Among these are *Spam, Network Security and Information Systems, Cybercrime and Cybersecurity. Data and Content (accuracy, offerings and access), Whois Services (internationalization), Privacy Issues, including Spyware, Intellectual Property, and Open Source and Free Software* are among issues of special concern to broadening the accessibility of the Internet to users.

18. The policy determination of the Internet and its infrastructure or services, as information or telecommunication services, is critically important in shaping the kind of regulation in many jurisdictions. In certain situations, this will be of great importance to small ISPs especially in developing countries dependent on conditions of competition, including through cost-related pricing models for interconnection.<sup>6</sup> The policy responses in the technical and operational fields will be subject to the laws of natural sciences. There must be far greater emphasis on the scientific principles and technology applications as central public policy issues if capacity for informed participation is to be enhanced in developing countries.

**C. Issues which are relevant to the Internet [WGIG Report]<sup>7</sup>.**

19. Other issues arising from the use of the Internet, with significant impact on the lives and livelihoods of citizens, involve public policy making in all spheres of political, economic and social activity and involves all stake-holders in appropriate ways. These include, *Access to Information and Knowledge Formation* in which, *Freedom of Expression, Intellectual Property and Public Domain Information, Media, governmental controls relating to Public Order and International Security and Dispute Resolution, Consumer and User Protection*. They involve policy choices relating mainly to the use of technology and their applications. It is moot whether all of these are appropriate for consideration in essentially technology focused forums or even in a single entity. In considering these issues, national and regional circumstances will shape the policy responses.

**D. Issues relating to developmental aspects of Internet governance [WGIG Report]<sup>8</sup>.**

20. There is a range of public policy issues that can improve the quality of life in developing countries through the enabling use of the Internet. The WGIG Report refers to these as developmental aspects of Internet Governance. Among these issues it identifies *Interconnection Costs and Multilingualism*. The lack of any substantive discussion of the issues should be remedied. The poor results shown by adopting this policy in other sectors lead to the conclusion that development issues are not to be treated as add-ons or external to the systemic infrastructure and critical resource

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<sup>5</sup> This follows from the classification in the WGIG Report. For ease of cross reference, see page 5 of the Report.

<sup>6</sup> See Report on FCC DSL classification at [http://news.com.com/2102-1034\\_3-5820713.html?tag=st.util.print](http://news.com.com/2102-1034_3-5820713.html?tag=st.util.print)

<sup>7</sup> This follows from the classification in the WGIG Report. For ease of cross reference, see page 5 of the Report.

<sup>8</sup> This follows from the classification in the WGIG Report for ease of cross reference, see page 5 of the Report.

management and other directly related Internet public policy issues. Among the public policies for “development” must be *Affordable and Universal Access policies, Interconnection Charges related to cost, national Infrastructure development, Open Source and Free Software* and *Content Accessibility*. These must be taken up as integral aspects of the issues directly related to the Internet Governance.

21. It will be important not to overstate the impact of the Internet on development, as if it could be a quick-fix or that, without serious consideration, it could help achieve the Millennium Development Goals (MDGs). If in doubt, a quick review of the MillenniumProject Report to the UN Secretary General<sup>9</sup> is indicative. There is scant reference to the Internet in this Report, in fact only one. Notwithstanding that there are six (6) references to the importance and promise of Information and Communication Technologies its findings make pretty dismal reading regarding their deployment in several developing regions.

22. **Financing**, as one of the main instruments of governance has been neglected in the WGIG process. An increase in financial resources will not necessarily improve developing country capacity in the governance of the Internet nor indeed deliver the benefits from its use without corresponding measures. By the same token, without the necessary and sufficient sustainable funding for Internet and Internet related public policy issues, there is very little likelihood of increased technical and institutional capacities. Financing in support of national and regional Internet public policy issues and multilateral arrangements is agreed, in addition to funds earmarked for the broader ICT programmes.

23. The WGIG Report identifies and arranges the issues for improved Internet governance in the following four clusters: a **forum, global public policy and oversight, institutional coordination**, and **regional, sub-regional and national coordination**.

24. In considering these proposals during the next phase of the WSIS, it will be important for all stakeholders in the Internet, not to lose sight of the urgent need to be engaged actively in the ICANN led process.

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<sup>9</sup> See “Investing in Development : A Practical Plan to Achieve the Millennium Development Goals”. Note however, the more extensive coverage in the Report on Innovation: Applying Knowledge in Development by its Task Force on Science, Technology and Innovation.