

A GLOBAL INTERNET GOVERNANCE FORUM THE VIEW FROM BRAZIL

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Introduction

The process leading to the second phase of the World Summit on the Information Society (WSIS) has established as one of its top priorities to advance on the formulation of a global Internet governance mechanism. Among developing countries, Brazil has been one of the most outspoken regarding the need for a broad debate on the future of global Internet governance and was one of the leading nations in the WSIS process which resulted in the formation of the Working Group on Internet Governance (WGIG).¹

The Brazilian government continues to seek a national consensus proposal regarding the future of global Internet governance. This is part of a broader multistakeholder initiative to establish consensus positions for the main themes of the WSIS. As expected, Brazil tries to derive its global proposal from national policy which originated a governance structure around the Internet Steering Committee in Brazil (CGIbr).²

An Interministerial Group on Information Society (“Grupo Interministerial da Sociedade da Informação”, GISI) has been established for this purpose, with representatives of several federal government ministries, private business, civil society organizations, and academic entities, under the coordination of the Ministry of Foreign Relations.

GISI carries out periodic open meetings in Brasilia to provide an opportunity for broad participation in policy formation discussions. A GISI subgroup on Internet governance, working together with the CGIbr’s Internet Governance Subcommittee has produced what is now being accepted as the Brazilian government’s official position on the issue.

This text attempts to present - unofficially - what consensus has already been achieved to date, so it may serve as a reference for discussion on the future of Internet governance.

The three basic texts for this review are:

- The WGIG Report;³
- GISI’s “Documento-base para a posição brasileira” (not published);
- Civil Society Internet Governance Caucus’ (CSIGC) Response to the WGIG Report.⁴

¹ For a detailed description of the Internet governance transition processes and a review of the final report of the WGIG, please refer to the research document by the author, “Internet Governance - A Review in the Context of the WSIS Process”, available at wsispapers.choike.org

² For a short description of the Brazilian governance model see the appendix at the end of this briefing.

³ www.wgig.org

The premises for the Brazilian proposal

Brazil has been one of the first countries in the WSIS process to insist on the importance of considering a number of themes well beyond the mandate of the Internet Corporation for Names and Numbers (ICANN) in a future global Internet governance arrangement. The Brazilian vision involves the need to create an international and multi-institutional structure to encompass advice, conflict resolution and oversight on a broad set of governance themes, with “adequate” representation of all interest groups. Such a structure would be pluralist (multistakeholder), transparent, democratic and multilateral.

Based on the experience of its own internal arrangement for Internet governance, Brazil envisions four interest groups participating in a global mechanism:

- National Governments;
- Business associations;
- Non-profit, non-business organizations;
- Academic/technical community.

The last two sectors should be represented by civil society organizations or associations. The reason to keep these two sectors separate is to make sure there will always be representatives from the academic/technical community⁵ as well as from non-profit, non-business organizations in the forum whatever the election/selection mechanism to choose representatives.

So far, the CSIGC has not been able to establish a consensus view on this representation structure. While most agree - like Brazil - that academic associations are part of civil society, there is disagreement regarding their specific representation in the global forum.

Brazil also agrees with the WGIG in proposing a global forum for Internet governance. However, while in the four models proposed by the WGIG for a global mechanism the establishment of a pluralist forum is contemplated, it is relegated to an advisory role only. The Brazilian proposal extends the scope of the forum to include coordination/oversight functions within it, thus proposing a single pluralist body for all governance functions.

In Brazil’s scenario, ICANN - reorganized as a true global organism, independent from any country and retaining its logical infrastructure governance functions - as well as any other future global Internet governance mechanism, would be under the coordination/oversight of the global forum.

The CSIGC tends to favour an advisory forum as a starting point, derived from the WGIG Report’s model 2. The forum would progress to become a global, authoritative reference on Internet governance. In this way, the CSIGC proposal can be considered a subset of Brazil’s proposal, as will be described below.

Brazil has detailed several aspects of its version of the global forum (called Global Internet Governance Coordination Forum - GIGCF). The GIGCF should be autonomous and independent as regards any national government or intergovernmental organization. Brazil agrees that a formal link to the UN needs to be established in such a way that does not impair the four principles for process and participation: multilateralism, democracy, transparency and pluralism.

⁴ wsispapers.choike.org/wsis_igcaucus_wgig_final.pdf

⁵ Even though they may be viewed as part of the non-profit civil society organizations’ realm.

Some of the basic assumptions for the creation of the global forum, according to Brazil, are:

- Existing institutions which are involved in Internet governance must adapt to the above four principles.
- The forum's working agenda should be broad and include all aspects of Internet governance.
- The forum's structure should include an intergovernmental decision-making instance dealing with Internet governance aspects that impact on national policies.
- The forum's implementation must be carried out in such a way to ensure stability and continuous development of the Internet.
- The governance model adopted in Brazil could serve as a reference to build the global forum, as well as to establish cooperation and exchange of experiences in structuring national governance models, in such a way as to facilitate participation of the national communities in the global forum.

The last assumption refers to paragraph 73(b) of the WGIG Report, which textually recommends “that coordination be established among all stakeholders at the national level and a multi-stakeholder national Internet governance steering committee or similar body be set up.” The WGIG does not go as far as recommending explicitly the governance mechanism adopted in Brazil, which would conflict with national policies adopted in several countries,⁶ but suggests steps be taken in a similar direction.

A review of the Brazilian proposal

Contrary to the models presented in the WGIG Report, Brazil suggests the creation of a single body with multiple functions, which should, as a whole, be pluralist (multistakeholder), democratic, transparent, and multilateral - the meaning of these features basically coincides with the WGIG's vision. Although details of the Brazilian position are still being discussed, consensus is being reached around a 14-point proposal regarding a global forum. Each of these are presented below.

1. The forum should be a global space for coordination and discussion of all governance issues, as well as to support development of global policies for the Internet.

The forum here is seen as a policy formulator operating, depending on the issue, in advisory, authoritative, coordination, oversight, and/or arbitration roles. It gets input from already existing technical, regulatory and advisory agencies and organizations and is regarded by these entities as authoritative on Internet-related matters pertaining to their fields of activity.

This point shows there is a lot of work to be done in establishing precise roles and specific mechanisms - including delegation of roles to organizations either existing or to be created - at different levels and instances of oversight, regulation, arbitration and so on.

2. The forum should coordinate a broad spectrum of governance themes.

This point is singled out to emphasize the importance of an overall mechanism in response to the non-existence of a governance instance consolidating all Internet-related issues.

3. The forum should be pluralist (multistakeholder).

⁶ Some of which have simply contracted a commercial incumbent to sell their country code top-level domains (ccTLDs) in the world market.

The Brazilian vision here is similar to the one adopted for its national governance body (see appendix). The way it envisions national governments' participation is described in the next point.

4. The forum should include an intergovernmental mechanism through which governments exert their responsibilities regarding Internet-related aspects of public policy.

This is one of the most relevant topics in the Brazilian proposal, and depending on the way it is presented it raises some controversy - particularly from the camp which wants to extend the ICANN model to all aspects of global governance.

Brazil wants a forum with full participation of all sectors in the building of recommendations and definitions of policies and international agreements. However, recommendations or regulations which are seen by governments to have implications in national public policy should be considered by the forum's intergovernmental instance before any approval, following a clearly established procedure. Contrary to certain declarations or interpretations, there is no mention of the International Telecommunication Union (ITU) or any other existing body as a replacement for ICANN in the governance of the logical infrastructure.

Of practical relevance is the fact that Brazil does not see the intergovernmental instance of the forum discussing and deliberating on all issues as a separate body. Rather it envisions representatives of the intergovernmental instance participating in the overall processes of the forum, which will remit to that instance the national policy-related issues only.

5. The forum, and any global governance instance, should not be under the jurisdiction of any specific country.

This is the expression of the WGIG Report's paragraph 48, which states: "The WGIG recognized that any organizational form for the governance function/oversight function should adhere to the following principles: No single Government should have a pre-eminent role in relation to international Internet governance. The organizational form for the governance function will be multilateral, transparent and democratic, with the full involvement of Governments, the private sector, civil society and international organizations. The organizational form for the governance function will involve all stakeholders and relevant intergovernmental and international organizations within their respective roles."

In addition, Brazil sees the global forum as an international organism, formally recognized by the United Nations, and legitimized by a specific international treaty. The CSIGC also agrees to a formal relationship with the UN (preferably directly with the Secretariat General), the terms of which need to be defined.

6. The forum should work for the global public interest.

This raises in particular arbitration issues (how to prevent or circumvent impasses resulting from national conflicts of interest which might block processes) and balanced participation issues (how to ensure developed and developing countries, private and public interests, commercial and non-commercial interests are equally represented).

7. The forum should abide by the criteria of transparency, democracy and multilateralism.

These are aspects already expressed in the WSIS Geneva resolutions.⁷

8. Each one of the representatives of the four interest groups (governments, business associations, non-profit non-business organizations, and academic/technical associations) ought to establish clear accountability rules regarding their constituencies.

Brazil emphasizes two particular issues in this regard: how to select and ensure global accountability of the non-governmental representatives; how to ensure qualified participation of the non-governmental sectors from developing countries. This is an explicit concern of the CSIGC, as well.

9. Regarding existing global organizations dealing with specific, Internet-related issues, the forum function should be of coordinating these organizations instead of replacing them.

This is a significant proposition - the approach is to build on existing expertise and organizations, not on starting from scratch, and to consolidate global governance in a coordinated fashion around existing organizations for the functions these are able to carry out, as well as help build new mechanisms when needed for components not yet properly covered. This means relying not only on the capabilities of ICANN, but also on several of the existing UN agencies and other technical bodies.

10. The forum should operate with efficacy and practicality to ensure rapid decision-making processes, in keeping with the dynamics of Internet expansion and evolution.

Brazil suggests mechanisms of representation in which the global forum is constituted by a relatively small number of representatives legitimately expressing the interests of all sectors. This requires adequate global procedures and mechanisms to ensure transparent and democracy election and selection processes on a country and regional basis.

11. The forum should be flexible and adaptable to adjust its agenda and processes to the rapid evolution of the Internet.

This emphasizes new issues evolving from deployment of advanced technologies, the consequences of rapid convergence of different media and communications systems to the Internet, and so on. These developments in their turn might require a corresponding evolution in certain forum functions, rules, standards and recommendations.

12. The forum should be able to act as an efficient clearing house collecting needs from the several interest groups and dispatching them (or the resulting resolutions) to the relevant organizations.

Brazil stresses that in this respect the forum should rely heavily on the latest Internet-based knowledge management technologies, expediting transparency, democratic procedures and the clearinghouse functions, as well as relying on open online and face-to-face meetings as much as possible.

13. The forum should be authoritative in its capacity to resolve conflicts and coordinate the work of different organizations.

Brazil sees this authoritative capacity defined by one or more international treaties or conventions, as well as specific contracts and memoranda of understanding.

⁷ www.itu.int/wsis/documents/doc_multi.asp?lang=en&id=1161 | 1160

14. The forum should be self-sustained.

The forum should be supported by an efficient, lightweight technical/administrative infrastructure. Meetings should as much as possible be online using the best Internet multimedia resources. Many activities would be carried out through specialized working groups, usually constituted of volunteers compensated for travel and per diem expenses when needed. These methods should help reduce the operational budget.

Funding for the global forum should come from all participating sectors according to their capacities. Ceilings for specific contributions should be established in order to avoid both barriers to entry and hegemonic positions. ICANN is the anti-example for this proposal, as its income comes basically from the major global top-level domain (gTLD) registries.

Appendix - The Brazilian Internet governance structure⁸

Brazil has pioneered a particular approach to Internet governance, as a result of intense lobbying from the academic community and civil society organizations in 1994-1995. In May, 1995, the ministries of Communications and of Science and Technology agreed to form the Internet Steering Committee in Brazil (known by its acronym CGIbr) - a group of about 12 volunteers from the government, user community, service providers, business and academic communities, and telecommunications companies.

Since its beginning CGIbr has established a clear policy which defines the .br ccTLD as an asset of the community and as the identity of Brazil on the Internet. In consequence, the domain registry function is a non-profit service in which all domain names cost the same (currently about USD 10 per year) - domains are charged just to cover the annual operating and development costs of the .br domain governance system. Thus, a registrant must submit proof of legal status in the country (as identified by a national income tax registration number and documentation demonstrating the applicant has a physical address in Brazil).

Between 2003 and 2004 a significant new development has taken place. The number of council members increased to 21, eleven of which from civil society organizations (four), business associations (four), and academic associations (three), all elected for three-year mandates by their own constituencies. The federal government has eight representatives, states' governments choose one representative, and a council member is also chosen by consensus among the top networking scientists in the country.

In 2004, a non-government organization (called NIC.br) under CGIbr's oversight was formed to take over administrative functions, including registration, IP number distribution, operation of Brazil's network of Internet Exchange Points and maintenance of CERT.br⁹ - a highly-regarded Internet security response team. The main functions of the governance system include:

- to establish strategic directives related to the use and development of the Internet in Brazil;
- to establish directives for the organization of the relationship between government and society in the execution of domain names' registration, distribution of IP numbers, and administration of the ".br" ccTLD in the best interests of Internet development in the country;
- to propose Internet-related research and development programs in keeping with high technical standards and innovation, as well as to stimulate Internet dissemination throughout Brazil, seeking opportunities to add value to the goods and services related to the network;
- to promote studies and recommend procedures, norms, and technical/operational standards related to adequate security for networks and services;
- to coordinate actions related to the formulation of norms and procedures related to regulation of Internet-related activities;
- to be represented in national and international Internet-related technical forums;
- to adopt the necessary administrative and operational procedures so that Internet governance in Brazil is carried out according to international standards accepted by global governance bodies, for which it may sign agreements, contracts, and similar instruments.

⁸ For a more detailed review, see Afonso, Carlos A. (2004), ".br: ccTLD as Asset of the Commons" in Don MacLean (ed.), *Internet Governance: A Grand Collaboration*, United Nations ICT Task Force, New York, www.unictaskforce.org/perl/documents.pl?id=1313

⁹ Computer Emergency Response Team Brazil, www.cert.br/index-en.html

Brazil's registry has gained international reputation as a very well managed and technically sophisticated operation, and today is the technical headquarters of LACNIC, the Regional Internet Registry covering Latin America and the Caribbean,¹⁰ as well as the secondary domain name service (DNS) host to several other ccTLDs.

¹⁰ lacnic.net/en/