

# Internet Governance: Trends and realities. Part 2

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## Abstract

Internet Governance is one of the global governance issues that emerged at the end of the 1990s. As the Internet is taking on an important role in every aspect of our lives, it has been recognized that its governance needs to involve all stakeholders and institutions to allow global access, foster development and contribute to the global economy, education, information. Security and privacy concerns should also be addressed in the policy dialogues. This paper outlines the global nature of the Internet Governance. It argues that in addition to dialogues and negotiations formal approaches should be explored to handle global issues in a global way. In its conclusion a mechanism is proposed to address Internet related global public policy issues.

The views expressed in this paper are solely those of the author in his private capacity and do not in any way represent the views of the UN Commission on Science and Technology for Development.

**Key words:** Internet, Internet Governance, global governance.

**Citation:** Major P. (2016) Internet Governance: Trends and realities. Part 2. *Business Informatics*, no. 1 (35), pp. 20–25. DOI: 10.17323/1998-0663.2016.1.20.25.

## 5. Regional and national Internet Governance approaches

The Internet evolved as a project with the participation of the US government and the technical community/academia. Subsequently business took a great interest in the Internet and contributed to its success through massive investments to expand the infrastructure and to create an environment for applications. With the rapid evolution of the Internet, civil society and international organizations got involved on issues as human rights, consumer protection, intellectual property rights, as well as privacy and security issues. Involvement of governments has been quite visible since the second phase of WSIS.

The Tunis Agenda of WSIS left an ambiguity in the Internet Governance approaches: on one hand, it evoked the multi-stakeholder governance model, but the notion of enhanced cooperation implicitly encouraged the government lead approach. Instances of the first model can be found in many organizations.

Internet Governance on the international level has evolved as a bottom-up, business-led multi-stakeholder process with the involvement of governments, the technical community, academia, civil society and international organizations. On the national level, most countries advocate the multi-stakeholder model. In practice, Internet governance issues frequently reflect political system-specific characteristics. In the shaping of national IG policies, most governments try to have a coordinated strategy, usually elaborated by the ministry of economic development, the ministry of information and communication technologies and the ministry of foreign affairs. However, in the absence of clear leadership, there may be contradictory statements and initiatives in some countries. The main concerns for internet-related national policy: national sovereignty, security, human rights, surveillance, privacy, cyber espionage, censorship, etc.

Many countries consider the Internet to be borderless space where everyone should be able to exercise rights online that are granted by national legislation. It is thought

that this approach has fostered the evolution of the Internet and it should be adopted by all. Other countries view the Internet as an extension of the respective national physical space and consider that exercising national sovereignty over it is of primary importance. Yet another group of countries try to follow a policy in between the two approaches. Some issues such as managing infrastructure and critical resources have always been among the main concerns of countries not involved directly in the global management of these resources. Access, content, surveillance and combating cyber-crime are closely related to human rights and privacy, as well as to security. In this context, it is important to note that in July 2014 the UN Human Rights Council in its resolution cosponsored by Brazil, Nigeria, Sweden, Turkey, Tunisia and the United States reaffirmed its earlier resolution that 'the same rights that people have offline must also be protected online, in particular the freedom of expression' [17]. The resolution recognizes that the global and open nature of the Internet is a driving force in accelerating progress towards development, including the implementation of the right to education. It also calls upon States to address the digital divide and to promote digital literacy and access to information on the Internet. The resolution takes note of the need for human rights to underpin Internet governance, and it affirms the importance of the global, open and interoperable nature of the Internet. It calls on States to formulate, through transparent and inclusive processes, national Internet-related public policies. Universal access and enjoyment of human rights must be central to those policies. The resolution recognizes that respect for the rights to freedom of expression and privacy is key to building confidence and trust in the Internet, and that any attempt by States to address security concerns on the Internet must be in accordance with international human rights obligations. Critically, the resolution states this must be done through democratic, transparent institutions, based on the rule of law.

Internet Governance is deeply embedded in national politics. The multi-stakeholder approach to Internet Governance is the generally accepted principle. Surveillance, censorship, limiting access and curtailing human rights are justified by governments with the emerging security concerns, cyber threats and cyber crime. Significant differences in national approaches, also articulated in international discussions, may prevent consensus in open negotiations.

In international discussions, like-minded countries emerge as a group emphasizing particular points from the Tunis Agenda. The US, UK, France other members of the EU, Australia, Brazil, Japan, South Korea, etc. are unconditional advocates of the multi-stakeholder Internet governance and consider it to be the prerequisite of in-

novation, competition and the freedoms on the Internet. Russia, China, Iran, Saudi Arabia and others recognize the importance of the multi-stakeholder approach on the international level, but their priorities are national sovereignty, security and social order.

*Table 2* summarizes some initiatives for cooperation on cyber security issues on the international and regional levels.

*Table 2.*

**Instruments and scopes  
of international cooperation on cyber security**

<b>Instrument</b>	<b>Scope of international cooperation provisions</b>
Draft African Union Convention [18]	Cybercrime
Commonwealth of Independent States (CIS) Agreement [19]	Offenses relating to computer information
Council of Europe (CoE) Cybercrime Convention [20]	Criminal offenses related to computer systems and data collection of evidence in electronic form of a criminal Offense
League of Arab States Convention [21]	Information and information technology offences Gathering of electronic evidence in offenses
Shanghai Cooperation Organization Agreement [22]	International information security

There are diverging views expressed in these documents, but commonalities found in the texts may offer a way forward.

In February 2015, the US Federal Communication Commission (FCC) accepted so-called net neutrality regulations to reclassify Internet Service Providers (ISPs) as common carriers, regulating them under Title II of the Communications Act, the same statute that governs telephone companies. Internet providers will be common carriers in their relationships with home Internet and mobile broadband customers; they will also be common carriers in their relationships with companies that deliver content to subscribers over the networks operated by ISPs. That includes online content providers. Broadband providers may not block access to legal content, applications, services, or non-harmful devices; they may not impair or degrade lawful Internet traffic on the basis of content, applications, services, or non-harmful devices and may not favor some lawful Internet traffic over other lawful traffic in exchange for a consideration. This rule also bans ISPs from prioritizing content and services of their affiliates. There is no ban on data caps (limiting the transfer of a specified amount of data over a period of time), but the proposal would let the FCC intervene when caps are used to harm consumers or competitors [23]. It is anticipated that many regulators will incorporate this approach in their national policies.

Several national and regional initiatives and dialogue forums help to shape the Internet Governance policy decisions. These initiatives in most cases follow the pattern of the IGF but concentrate on national and regional issues (<http://www.intgovforum.org/cms/meetings>).

## 6. Towards a global framework for global Internet Governance

The evolution of the Internet is very fast, but the evolution of the legal framework is much slower. In the discussions related to legal frameworks, it is assumed that the Internet is not fragmented. The Internet Governance is embedded in a multi-stakeholder approach and the legal framework needs to be harmonized. Many countries focus on human rights, data protection, privacy rights, consumer rights and intellectual property rights.

Most of the existing international treaties, conventions and agreements covering human rights were negotiated before the Internet (The Universal Declaration of Human Rights [24], UN International Covenant on Civil and Political Rights [25], UN International Covenant on Economic, Social and Cultural Rights [26], UN Convention on the Elimination of All Forms of Discrimination Against Women [27], UN Convention of the Rights of the Child [28]). They have to be analyzed with a view to extending their applicability to cyberspace.

More recent treaties and resolutions on human rights have already considered or made reference to Internet and ICTs (UN Convention on the Rights of Persons with Disabilities [29], UN Human Rights Council Resolution on the promotion, protection and enjoyment of human rights on the Internet).

Data protection and privacy rights, similarly to human rights, are considered to be very important. The primary purpose of data protection legislation is to protect individuals against possible misuse of personal data information about them held by others, to give people the right to know what information organizations hold about them, and to provide a framework for organizations handling personal data. There are international [30] and regional initiatives [31] about collecting, organizing or altering personal data; retrieving, consulting, using, storing or adapting the data; disclosing the data by transmitting, disseminating or otherwise making it available; or aligning, combining, blocking, erasing or destroying the data. During these activities, information must be fairly and lawfully processed, processed for specified purposes, appropriate, relevant and not excessive, accurate and up-to-date, not kept for longer than is necessary, processed in line with individuals' rights, secure and not transferred outside the country without adequate protection.

The UN Guidelines on Consumer Protection (UN-GCP) [32] provide a framework for governments to develop and strengthen consumer protection policies and legislation. The document adopted by the UN General Assembly in 1985 was amended in 1999. It contains the essential elements of comprehensive consumer protection, including the right to safety, the right to basic needs, the right to information, the right to consumer education, the right to redress, the right to be heard and the right to a healthy environment. The guidelines are being revised by UNCTAD.

Important, Internet related treaties: the WIPO Copyright Treaty [33] and the WIPO Performances and Phonograms Treaty [34].

The ITU International Telecommunication Regulations [35] establish general principles relating to the provision and operation of international telecoms; facilitate global interconnection and interoperability; underpin harmonious development and efficient operation of technical facilities; promote efficiency, usefulness, and availability of international telecommunication services, and treaty-level provisions are required with respect to international telecommunication networks and services. Net-neutrality regulations may have an impact on the interpretations of the International Telecommunication Regulations (ITRs) of the ITU modified in the controversial World Conference on International Telecommunications (WCIT) in Dubai, in 2012.

The ACTA – Anti-Counterfeiting Trade Agreement is an international treaty for the purpose of establishing international standards for intellectual property rights enforcement. The agreement aims to establish an international legal framework for targeting counterfeit goods, generic medicines and copyright infringement on the Internet, and would create a new governing body outside existing forums, such as the World Trade Organization, the World Intellectual Property Organization, and the United Nations. The treaty has not entered into force after worldwide protests arguing that that the 'intended benefits of this international agreement are far outweighed by the potential threats to civil liberties'.

The General Agreement on Trade and Services (GATS), a treaty of the World Trade Organization (WTO), is one of the results of the 8th round of the multilateral trade negotiations (Uruguay Round), conducted from 1986 to 1994 and signed by all member states of the WTO [36]. The GATS provides an international framework for trade and services including e-commerce, e-banking and other e-services (except government services) using the Internet. The agreement came into force in 1995 after difficult nego-

tiations. Another result of the Uruguay Round is the Agreement of the Trade Related Aspect of Intellectual Property Rights (TRIPS) [37]. This agreement sets down minimum standards of intellectual property regulations as applied to nationals of other WTO members.

Ten years after the WSIS, stakeholders are assessing the achievements and considering the possible ways forward. There are significant results in bridging the digital divide. We have to recall that almost 60% of the world's population still does not have access to the Internet. We have to face a new challenge, the so-called broadband divide between developed and developing countries. There are significant results in Internet Governance: many of the proposals of the WGIG included in the Tunis Agenda have been or are being implemented. IGFs provide platforms for open discussions and contribute to better governance. It is clear, however, that global public policy issues have to be addressed using appropriate mechanisms in the UN system that are acceptable to all stakeholders. The approach may require reassessing, reviewing and if needed modifying available instruments with a view to taking into account the specific nature of the Internet. At the same time, the feasibility of using the multi-stakeholder approach should be explored and applied in Internet-related public policy issues dealt with within the UN system. In his report, the chair of the CSTD WGEC states that during the discussion on enhanced cooperation some participants proposed to create a new mechanism within the UN system mandated to deal with Internet related global public policy issues, while others argued that mechanisms already exist in the UN and in different agencies of the UN system.

To overcome the differences, the Secretariat of the UN CSTD may be tasked to help to explore the best way to deal with Internet related public policy issues within the UN system through performing clearing-house functions with the close cooperation of other UN agencies and other stakeholders. The Secretariat shall identify problems and issues, identify existing mechanism within the UN system where these problems are addressed, indicate where modification of the existing mechanism/mandate may be required and keep track of the outcome of the discussions/negotiations of the problems. In performing these functions, the Secretariat in its assessments will be helped by a voluntary, multi-stakeholder advisory group selected by each stakeholder group and nominated by the Chair of the CSTD. Global issues in general are complex and require multidisciplinary approaches.

Many methods and techniques have been developed to deal with the complexity of systems, including systems dynamics, fractals, chaos theory, the science of networks,

and complexity theory (<http://www.ipsonet.org/publications/open-access/policy-and-complex-systems>). They provide a powerful set of tools to model and/or simulate phenomena that are characterized by their scale-free and/or small-world network structure, sensitivity to initial conditions, power-law distributions, adaptability, self-organization, feedback loops, and emergent properties. However, applying such tools on any real-world problem will require the mastery of intricacies of both public policy and a wide variety of discipline-specific expertise, working together to uncover principles that both transcend and complement disciplinary contributions.

There are views that application of scale-free network theory to the study of international relations, with special attention to cyber venues, may contribute to better understanding of cyberpolitics [38]. Recently attempts have been made to analyze complex mechanisms using mathematical models such as complex systems or network theory [39]. Further research is needed to explore how formal methods can be applied to global governance issues in general and to Internet Governance in particular.

### Conclusion

In this paper I tried to show the complexity of global governance in general and of Internet Governance in particular. The Internet is operating based on standards elaborated through rough consensus, the first of which was published in 1969. The governance of the Internet, infrastructure, names and numbers and related issues, is handled in a multi-stakeholder approach. Significant efforts are being made to find solution to the controversies related to the management of the root zone. Discussions are being conducted about the transition of the US Government's stewardship to a multi-stakeholder arrangement with a view to meeting the target date of 30 September 2015. Governments are getting more and more involved in Internet Governance: more than 140 governments are participating in the work of the Government Advisory Committee of ICANN. They are making significant contributions to public policy discussions and give advice to the ICANN Board. GAC delegates take an important part in the discussions on the transition and the accountability of ICANN. The governance on the Internet is embedded in the national interests, policy priorities and traditions. Application of existing multilateral arrangements on issues of human rights, security, censorship, etc. need to be analyzed and reconsidered with a view to adapting them for governance on the Internet. Considerable efforts have to be made to reconcile concerns for free access, human rights, development as well as national security and sovereignty. ■

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## Управление Интернетом: Тенденции и реальность. Часть 2

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#### Аннотация

Управление Интернетом представляет собой одно из направлений глобального управления, активно развивающееся с конца 1990-х годов. Поскольку Интернет играет важную роль в нашей жизни, представляется необходимым вовлечение в процессы управления всех заинтересованных лиц и институтов, а также

способствование развитию и вкладу в мировую экономику, образование и информационное обеспечение. Вопросы информационной безопасности и конфиденциальности также должны рассматриваться в рамках обсуждения политики в области управления Интернетом. В данной статье рассматривается глобальный аспект управления Интернетом. Показано, что в дополнение к обсуждениям и переговорам должны применяться формальные подходы, позволяющие решать глобальные вопросы. Предлагается подход к решению вопросов, связанных с глобальной политикой в области управления Интернетом.

Выводы и рекомендации, приведенные в статье, отражают исключительно личное мнение автора и не должны трактоваться в качестве официальной позиции Комиссии ООН по науке и технологиям.

**Ключевые слова:** Интернет, управление Интернетом, глобальное управление.

**Цитирование:** Major P. Internet Governance: Trends and realities. Part 2 // Business Informatics. 2016. No. 1 (35). P. 20–25. DOI: 10.17323/1998-0663.2016.1.20.25.

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