Institutional overviews

Introduction

Seán Ó Siochrú

This section offers a succinct assessment of how five international institutions have performed in relation to information and communication technology (ICT) policy, including the outcomes of the World Summit on the Information Society (WSIS). A theme of special interest is *participation* in policy-making, particularly the participation of civil society, of women, and of actors from the South.

Our authors examine the Internet Corporation for Assigned Names and Numbers (ICANN), the International Telecommunication Union (ITU), the United Nations Development Programme (UNDP), the United Nations Educational, Scientific and Cultural Organisation (UNESCO), and the World Intellectual Property Organisation (WIPO). The World Trade Organisation (WTO), an important institution with extensive and complex relationships to ICTs spread over a number of its agreements, is notable for its absence here and will be included in the next edition of this publication.

Each relates to ICTs differently. ICANN and ITU would normally be considered as core ICT governance institutions, around internet and telecommunication infrastructure respectively. UNESCO, on the other hand, sees itself as a major contributor to *content*, in science, culture and education: a full UNESCO sector is devoted to communication and information, and communication is at the heart of its mission. WIPO, concerned with intellectual property, might initially look out of place. But copyright exerts strong influence on access to ICT content, and WIPO is carving an important niche for itself in relation to digital content, by policing internet domain names on behalf of trademark holders and promoting new varieties of intellectual property in broadcasting, webcasting and all kinds of internet audio and video – all the while reinforcing and extending protection to owners. UNDP's interest is long standing and focuses on the ultimate application of ICTs specifically as enablers of development. Thus between them they cover ICT infrastructure, the generation and ownership of knowledge shared over that infrastructure, and the final application of ICTs to development.

So what do our authors conclude about them?

The WSIS process was unique. For the first time it brought together virtually all shades of ICT actors into intense debate, an opportunity to forge a shared view and plot the future together. But did this actually happen? And what was the role of these institutions?

As discussed elsewhere in this publication, the WSIS certainly did create a shared forum that, especially for the numerous participants arriving with highly specialised and sometimes narrow backgrounds, constituted an intensive crash-course in every facet of ICTs. Significant sharing and convergence in thinking did take place. Old divergences, however, in the end dictated a meagre outcome in policy terms. The limited engagement of non-ICT/telecoms policy-makers and especially of those concerned with development, the absence of any new funding, and the containment of proposals and commitments within a narrow range favoured by corporate and Northern interests

meant that those institutions charged with moving forward after Tunis in December 2005 are facing a very challenging task.

Three of these institutions – the ITU, UNDP and UNESCO – are considered here. Eight of the ten WSIS action lines with individual institutional moderation fell to these three. (Action line 7 on ICT applications is divided into eight sub-sections, two of which are covered by UNESCO). Lacking new funding or specific national commitments and programmes, and with the impetus generated from the Summit process now gone, the multi-stakeholder action line groups subsequently formed can probably, at best, identify a few niche areas in which their interests coincide sufficiently to warrant joint action.

To some extent, policy change will depend on the degree to which each institution has internalised the WSIS outcomes or will do so in the future. UNESCO appears to have done this most effectively, being determined at an early stage to use the WSIS to guide future actions under the theme of "Knowledge Societies". Its current Medium-Term Strategy and the upcoming one for 2007 to 2013 strongly reflect the WSIS outcomes, led by its Communication and Information Sector. The UNDP, at this point lacking a unit at headquarters concerned with ICT, is realigning its activities in areas where ICTs have been mainstreamed – poverty alleviation and better governance – to conform to WSIS outcomes, a useful but limited effort. The ITU's Development Sector at its Conference in March 2006 sought to position itself as a key player in WSIS outcomes, but in practice merely cross-referenced its programmes for the next four years with the action lines and noted that "ITU-D functions may be reviewed taking into account WSIS outcomes." Nor is the United Nations Group on the Information Society (UNGIS), the UN body responsible for coordinating WSIS implementation and chaired successively by the institutions above, likely to come up with significant policy initiatives.

The ITU, of course, has a larger policy role in promoting the WSIS outcomes through its member states' governments. The Antalya Plenipotentiary Conference in November 2006 was an opportune time to make, or at least assess, progress. In the event, ITU members agreed to incorporate the results of WSIS into their long-range plans and ongoing work programmes, but stopped short of revising their organisational priorities or resource allocations. The new Strategy Plan for the ITU makes only passing reference to the WSIS. (However, it is worth noting that a coalition of developing countries determined the election results of some key ITU posts and shaped some vital areas of ITU strategy. This can in part at least be attributed to the process of mutual interaction and collaboration arising from the WSIS process.)

WIPO and ICANN were more peripherally involved in the WSIS: the former mainly to ensure that nothing occurred there that would encroach on its bailiwick of intellectual property (its success was not least because this coincided with the position of powerful governments and the private sector); the latter, though without any official responsibilities, taking part in relevant discussions and actively involved in the UN Working Group on Internet Governance that laid the groundwork for the Internet Governance Forum (IGF). Of course, the IGF and indirectly perhaps the Global Alliance for ICT and Development (GAID) may be considered among the most significant outcomes

of the WSIS. As the title "institution" is perhaps premature for these, they are not given separate consideration here, but the analyses often reach out in their direction.

All five institutions are also active in areas of ICT outside the WSIS, but especially ICANN and WIPO. In terms of their policy-related activities, both come in for criticism. ICANN, a self-governing entity set up only in 1998, has succeeded in some areas of its mandate, but failed in others, notably relating to the delegation of new top-level domains registration. Criticism of WIPO is much more sweeping and severe. It stands accused of policy-making and implementation, including in its arbitration activities, that systematically favour the interests of intellectual property holders, from whom it gets its funding, and of ignoring its UN commitment to a development mandate.

Criticisms in both cases, interestingly, are closely related to their performance in facilitating broad participation, the theme of this report. ICANN is accused of not fostering accountability to and representation of the diversity of users, ultimately favouring the interests of one industry sector – the "rule takers" – over internet users and future businesses. WIPO is taken to task in no uncertain terms for a host of ways in which the "one-country, one vote" UN principle is subverted and the exercise of real power is skewed strongly in favour of more powerful countries and intellectual property holders.

In general it is difficult to distinguish in any of these institutions the issue of participation – of women, civil society or developing countries – in ICT policy processes from the participation of these sectors in their wider institutional activities and structures.

UNESCO and UNDP both have strong institutional support for gender-related issues, which is hardly surprising given the domains in which they operate. The ITU has recently committed itself to "accelerating gender mainstreaming." ICANN has no specific commitment relating to gender balance, but institutional changes have led to a growing number of women in its decision-making positions. However, as far as can be ascertained, few if any specific initiatives relating to gender-balanced ICT policy making, including at the WSIS, were taken by these institutions.

A somewhat similar picture emerges with regard to the participation of civil society. UNESCO and the UNDP, as core UN agencies, have a long history of facilitating participation, although its effectiveness is constantly a matter for debate. The ITU has only recently woken up to the existence of civil society, and is slowly making moves towards integrating civil society representatives into its activities, but is yet a far cry from the promise of the WSIS for balanced multi-stakeholder participation. WIPO also allows civil society accreditation, though the modalities of participation are limited. ICANN appears to be going in reverse, and it has greatly reduced the influence of civil society, "at-large members", and hence the breadth of internet users in its structures.

Southern participation is also varied. UN institutions do maintain the "one country, one vote" principle but as noted above this can be subverted in a number of ways. Additionally, WIPO stands accused of ignoring its UN development mandate. As a key UN development agency, the UNDP takes most seriously its role in relation to Southern

representation and is structurally and institutionally sensitive to it. UNESCO, although not a development agency per se, explicitly gears its strategy and programmes towards the South. The ITU has its development division, ITU-D, to focus on development issues and, as noted, developing country members have recently asserted some newfound confidence, partly arising from the WSIS. Participants from developing country stakeholders in the structures of ICANN, which does not have a national membership structure, are under-represented.

Beneath the formal level, it proved more difficult to assess the efforts made to ensure broad participation. Part of the problem is that information on the precise numbers of participants who are women or representatives of civil society or the South is seldom recorded or compiled, and specific actions are often isolated and unique. UNESCO, however, can be credited with supporting systematic efforts to assist civil society, including to some extent from the South, in the early stages of the WSIS.

Each institutional assessment comes forward with a set of recommendations. Standing above all of these is the fact that we are already seeing a shift away from the summit approach in future global policy formulation. The relevance of getting everyone together under a single roof and hammering out a common policy diminishes as the UN system as we know it evolves towards more open models, and as policy is more and more made by facts on the ground, established in bilateral, multilateral and regional forums.

In this scenario, achieving some kind of consensus relies more on the incorporation of all views into the processes of each institution – the question of participation once again – and on improved and innovative mechanisms for coordination and partnership building. ■

International Telecommunication Union (ITU)

Don MacLean

Introduction

Objectives and main activities

The overall objectives of the International Telecommunication Union (ITU) are to promote the development of telecommunication networks and access to telecommunication services by fostering cooperation among governments and a range of non-governmental actors that includes network operators, service providers, equipment manufacturers, scientific and technical organisations, financial organisations and development organisations.

The ITU's main activities include:

- Standardising telecommunications technologies, services and operations, including tariffs and numbering plans.

- Allocating radio frequency bands to different services and coordinating and registering frequency assignments and satellite orbital positions so as to avoid harmful interference.

- Promoting the development of telecommunications infrastructure and services, regulatory institutions, and human resources in developing countries.

- Providing information on global telecommunications trends and developments.

Legal/constitutional composition

The ITU is founded on a set of treaties dating back to 1865 that have binding force in international law – the ITU Constitution and Convention, the Radio Regulations, and the International Telecommunication Regulations – as well as resolutions, recommendations and other non-binding instruments adopted by its conferences.[1]

Although it is an intergovernmental organisation, a large number of private sector entities and other non-governmental actors are members of the ITU and participate in its work. This is a longstanding arrangement that reflects the important role non-governmental actors have played since the days of the telegraph in developing telecommunications technologies, networks and services. The current ITU Constitution provides for three distinct classes of membership – member states, sector members, and associates – with differing rights and obligations.

The ITU is organised into three sectors – Radiocommunication, Telecommunication Standardisation and Telecommunication Development – known respectively as ITU-R, ITU-T and ITU-D. Much of the substantive work of the ITU is done by its members in sector meetings with administrative support from the three sector bureaus: the Radiocommunication Bureau (BR), Telecommunication Standardisation Bureau (TSB) and Telecommunication Development Bureau (BDT). Each bureau is headed by a director.

WEBSITE: www.itu.int
HEADQUARTERS: Geneva, Switzerland
FOUNDED: 1865
UN STATUS: UN specialized agency since 1947
TYPE: Intergovernmental organisation (191 member states) with non-governmental members (over 600 sector members and 130 associates)

The ITU General Secretariat provides common services to support the activities of the sectors. It also organises world and regional TELECOM exhibitions and forums as well as smaller scale seminars and workshops, and publishes reports on trends, developments and emerging issues. It is headed by a secretary-general who is responsible for the overall management of the ITU and is assisted by a deputy secretary-general.

ITU activities are funded mainly through a "free choice" system in which member states and sector members select the number of contributory units they wish to pay from a sliding scale that ranges from 40 units at the top end to one sixteenth of a unit at the bottom. Because they do not have the same rights as member states, most notably the right to vote, the value of a sector member unit is only a fraction of the value of a member state unit (currently one fifth). The fees paid by associates in turn are fractions of the value of a sector member unit, reflecting their more limited rights to participate in ITU activities.[2]

The monetary value of the contributory unit is adjusted every two years as part of the ITU budget process. The values of member state and sector member contributory units currently stand at CHF 318,000 (USD 260,627) and CHF 63,600 (USD 52,125) respectively. The fees charged to associates range between CHF 1,987.50 (USD 1,628) and CHF 10,600 (USD 8,687), depending on the sector with which they are associated and the countries from which they come.

In addition to membership fees, the ITU derives significant revenues from the sale of publications and other cost recovery activities. These activities currently account for about 15% of total revenues.

Key members/participants and decision-making structures

The ITU membership currently includes 191 member states that have the right to take part in all activities, 643 sector members that have the right to take part in all the activities of the sector(s) to which they

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1   More information is available at the ITU web site.

2   There are a number of restrictions built into the "free choice" system. For member states, only least-developed countries (LDCs) can contribute at the one-sixteenth unit level. Sector members of the Radiocommunication and Telecommunication Standardisation sectors must contribute at least one half a unit, while Telecommunication Development sector members can choose to contribute at the one-quarter, one-eighth or one-sixteenth unit level. The fees for associates also differ by sector, being one sixth of a sector member unit in the Radiocommunication and Standardisation sectors, one twentieth in the Development Sector, and one fortieth for LDCs. For further details see: <www.itu.int/members/pdf/membership.pdf>.

belong, and 132 associates that have the right to take part in some activities of the sector(s) with which they are associated (e.g. the meetings of an individual study group).[3]

Overall governance is provided by the Plenipotentiary Conference, which meets every four years to amend the ITU Constitution and Convention, approve strategic and financial plans, adopt policies that may apply to the organisation as a whole or to one or more specific sectors, and elect the secretary-general, the deputy secretary-general and the directors of the three bureaus. The Plenipotentiary Conference also elects the twelve members of the Radio Regulations Board, a part-time body that oversees the operations of the BR on behalf of the member states.

In addition to these officials, the Plenipotentiary Conference elects countries to serve on the ITU Council. This body meets annually and is empowered to govern between Plenipotentiary Conferences. It is composed of one quarter of the ITU state membership (currently 46 members) and elections are structured to ensure that the five ITU administrative regions are fairly represented in terms of the number of member states in each region.

Each ITU sector has its own governance structure composed of:

- Periodic assemblies (in ITU-R and ITU-T) or conferences (in ITU-D) that provide overall direction to sectoral activities

- Advisory boards drawn from the membership that guide sectoral activities in the period between conferences

- Study groups that examine issues and develop recommendations in specific subject areas.

The World Telecommunication Standardisation Assembly and the World Telecommunication Development Conference meet every four years to plan sectoral work, as well as to elect advisory group and study group chairs and vice-chairs.

The Radiocommunication Assembly, the equivalent body in ITU-R, meets every three to four years in conjunction with the Radiocommunication Conference, a treaty-making event which has the power to amend the Radio Regulations.

The ITU Constitution provides for one other governance structure: the World Conference on International Telecommunications (WCIT), a treaty-making event that has the power to amend the International Telecommunication Regulations (ITRs).[4]

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3 Membership information retrieved in October 2006. For lists of ITU members see: <www.itu.int/GlobalDirectory>.

4 The ITRs were last amended in 1988, at a time when telecommunications was beginning to be transformed by the privatisation of state-owned operators and the introduction of competition in both domestic and international markets. These trends have gathered strength in the past two decades, during which time the internet and convergence have also helped transform telecommunications worldwide, rendering the ITRs increasingly obsolete. ITU members have long recognised that the ITRs no longer reflect the realities of international telecommunications. However, successive reviews over the past dozen years have been unable to achieve consensus on what action should be taken. The 2006 Antalya Plenipotentiary Conference agreed to launch a new review process to be completed by the time of the next plenipotentiary conference in 2010, and to convene a WCIT in 2012 to consider the results of this review.

Relations with other international institutions and the multilateral system

The ITU has been a specialised agency of the United Nations since 1947. From an administrative point of view, it is part of the UN "common system" of administrative regulations, rules and procedures that governs the terms and conditions of employment of ITU staff and elected officials and also sets general policies and standards for financial, human resources and information systems management.

The UN and other specialised agencies have the right to attend ITU conferences as observers. Some UN agencies take an active interest in the work of the ITU either because their constituencies are major users of telecommunications – e.g. the International Civil Aviation Organisation, the International Maritime Organisation, the United Nations Educational, Scientific and Cultural Organisation (UNESCO) – or because of a shared interest in development – e.g. the United Nations Development Programme (UNDP).

In addition to these links with the UN system, the ITU has close relations with the 79 intergovernmental and non-governmental international and regional organisations, 11 regional intergovernmental telecommunications organisations and 5 intergovernmental organisations operating satellite systems that take part in its work as sector members.

As a result of the important roles they have played in driving telecommunications liberalisation over the past ten to fifteen years, the ITU has attempted to develop strong relations with the World Bank and the World Trade Organisation (WTO).

Commitment to development

The 1984 report of the ITU Independent Commission for World Wide Telecommunication Development, popularly known as the Maitland Commission after its chairman, highlighted the "missing link" in developing countries and internationally between the development of telecommunications and overall economic and social development (ITU, 1984).

As a result of this report and as part of a comprehensive reform effort that began in the late 1980s in response to changes that were taking place in the telecommunications environment (i.e. privatisation, liberalisation, competition), the ITU upgraded its commitment to development in 1992 when it established ITU-D.

About 25% of the ITU budget is allocated to ITU-D (vs. about 35% to ITU-R, 18% to ITU-T and 21% to the General Secretariat).

In addition, there is a constitutional obligation for the directors of the radiocommunication and standardisation bureaus to provide technical support to the development sector. This is typically done through workshops and seminars to help build developing country capacity in relation to ITU-R and ITU-T activities.

Commitment to gender equality

The 2002 Marrakech Plenipotentiary Conference adopted Resolution 70, "Gender Mainstreaming in ITU" (ITU, 2002), which called on member states and sector members to promote gender equality in their activities; resolved to improve socioeconomic conditions for women,

particularly in developing countries, by mainstreaming the gender perspective in telecoms development programmes; and to incorporate the gender perspective in the ITU strategic plan and the operational plans of the sectors.

The 2006 Antalya Plenipotentiary Conference updated this resolution to take account of developments inside and outside the ITU since 2002, particularly the results of the World Summit on the Information Society (WSIS) and the 2006 Doha World Telecommunication Development Conference.[5] In renewing Resolution 70, the Antalya Conference adopted the broader goal of "promoting gender equality towards all-inclusive information societies" in addition to gender mainstreaming in the ITU. The Conference also amended the ITU Constitution and Convention to indicate that their language should be considered as gender neutral.

The revised resolution tasks the Council with accelerating gender mainstreaming activities. It instructs the secretary-general to ensure that the gender perspective is incorporated in the work programmes, management approaches and human resource development activities of the ITU, and to report annually to the Council on progress made.

Southern actors and civil society participation

Virtually all developing countries are members of the ITU. Like developed countries, each of them is represented in the ITU by their telecommunication administration, i.e. the government department or agency responsible for international telecommunication policy.

A significant number of non-governmental entities and organisations from developing countries and regions are ITU sector members. Some 548 of the ITU's 643 sector members are national entities. Under the membership structure set out in the ITU Constitution and Convention, these entities are classed as recognised operating agencies (ROAs), scientific and industrial organisations (SIOs), or financial and development institutions.

These 548 national entities come from 110 different countries. Slightly more than half of them are from non-OECD countries. The 229 ITU sector members that come from these 90 developing countries include 48 sector members from South and East Asia, 46 from sub-Saharan Africa, 39 from North Africa, 37 from the Near and Middle East, 17 from Eastern Europe, 17 from South America, 11 from Central America and the Caribbean, and 6 from Central Asia.

Of the 229 developing country sector members, 126 are only members of the development sector. The other 103 are members of the radiocommunication and/or standardisation sectors as well. The developing country members of these two sectors are drawn from 51 different non-OECD countries.

In addition to national entities, ITU sector membership includes 79 regional and other international organisations (REINTORGs), 11 regional telecommunications organisations (REGORGs), and five intergovernmental organisations operating satellite systems (SATORGs). Of these, 28 REGINTORGs, 9 REGORGs, and 3 SATORGs represent regions that are exclusively or largely composed of developing countries.

There are currently 132 associate members of the ITU – 123 national entities, of which 7 are based in developing countries, and 9 regional and other international organisations, of which 2 are based in largely developing regions.

Because the ITU membership structure does not include a class of civil society entities and organisations[6] – and in the absence of a generally agreed definition of "civil society" – it is difficult to be precise about the extent to which civil society entities and organisations participate in the work of the ITU, either as sector members or as associates.

If civil society is broadly defined to include not-for-profit scientific and technical organisations, as well as organisations representing non-business users of telecommunication services and/or communities, a significant proportion of the ITU's regional and other international organisation membership could be considered to be part of civil society. However, if not-for-profit scientific and technical organisations are excluded from the definition of civil society, there currently is very little civil society participation in the ITU.

Role and responsibilities in ICTs

General orientation

As a technical organisation, the ITU's general orientation is to promoting the development of telecommunications technologies and access to networks and services. This involves it in a wide range of issues related to scientific research, experimental development, equipment manufacturing, software engineering, network planning, infrastructure deployment, service provisioning, interconnection, charging and revenue sharing, information and network security, human resource development, telecommunications industry financing, and regulation.

Although there is a high degree of correlation between the development of telecommunications and overall economic and social development, the ITU's primary orientation is to "the development of telecommunications" – including infrastructure, services, applications and regulatory arrangements – rather than to "telecommunications for development".

Responsibilities in relation to the WSIS

On the basis of a proposal from Tunisia, the 1998 ITU Minneapolis Plenipotentiary Conference adopted a resolution that called on the United Nations to hold a World Summit on the Information Society. It instructed the ITU secretary-general to pursue the matter with the UN

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5   More information about both the WSIS and the 2006 Doha Conference is available from: <www.itu.int/wsis> and <www.itu.int/ITU-D/wtdc06>.

6   The ITU has never implemented ECOSOC Resolution 1296, adopted in May 1968 (or later revision), concerning recognition of NGOs, although there was an effort by NGOs themselves to gain recognition about a decade ago. See: <www.comunica.org/itu_ngo>.

secretary-general and the executive heads of other UN agencies and programmes, whose activities are coordinated through the body now known as the UN Chief Executives Board (CEB).[7]

The proposal was enthusiastically received when it was presented to this body in the spring of 1999. The secretary-general proceeded to develop a plan that involved holding the summit in two phases – the first in Geneva in 2003 and the second in Tunis in 2005. This plan was approved by the ITU Council and subsequently endorsed by the UN General Assembly in 2001. The General Assembly asked the ITU secretary-general to take lead responsibility for managing the summit process in conjunction with other interested agencies.

The ITU secretary-general served as WSIS secretary-general and chaired the High-Level Summit Organising Committee. Within the ITU, the General Secretariat's Strategic Planning and External Affairs Units provided core support for the substantive and procedural aspects of the WSIS process with assistance from the sectoral bureaus, particularly the BDT. The ITU's internal resources were augmented by contributions from some ITU member states and sector members, as well as the Canton of Geneva.

The Tunis Agenda for the Information Society included separate follow-up frameworks for ICT financial mechanisms, internet governance, and the eleven action lines contained in the agenda.

With respect to the action lines, the Tunis Agenda asked the UN Economic and Social Council (ECOSOC) to monitor implementation on behalf of the General Assembly. It also asked the CEB to set up a United Nations Group on the Information Society (UNGIS) to coordinate the activities of UN departments and agencies. This group has been established and is currently chaired by the ITU secretary-general.

The Tunis Agenda identified organisations to moderate and facilitate multi-stakeholder partnerships in relation to each one of the eleven action lines. It tasked the ITU with this responsibility for action line C2: Information and communication infrastructure, and action line C5: Building confidence and security in the use of ICTs. In addition, it asked the ITU to lead in coordinating the facilitation process, along with UNESCO and the UNDP.

Between the first and second phases of the Summit, the ITU conducted a stocktaking exercise which resulted in an extensive inventory of stakeholder activities related to the Geneva Plan of Action, which is structurally similar to the Tunis Agenda. Following the second phase of the Summit, the ITU updated this inventory, which now includes more than 3,000 activities, and also compiled a Golden Book of new commitments made at the Tunis phase.

Description and analysis of ICT activities

Activities in relation to the WSIS

The ITU undertook a number of activities specifically related to the WSIS in 2006.

The ITU secretary-general has taken the lead within the UN system in facilitating and coordinating WSIS follow-up activities. As mentioned above, the ITU secretary-general currently chairs the United Nations Group on the Information Society. The ITU website is the repository for the WSIS documents and for information regarding WSIS follow-up. In addition, the secretary-general has launched a "Connect the World" initiative – an ambitious effort involving partners from industry, government, international organisations and civil society to bridge the "digital divide" and connect the unconnected by creating an enabling environment, developing infrastructure, and promoting applications.

The ITU-D World Telecommunication Development Conference that took place in Doha, Qatar in March 2006 adopted the Doha Declaration and the Doha Action Plan (ITU, 2006a) – documents that set out the policy agenda and work programme for ITU-D for the next four years.

These two documents seek to position ITU-D as a key player in the implementation of the WSIS outcomes, particularly in areas that fall within the "core competencies" of the ITU, which are identified as including assistance in bridging the "digital divide", international and regional cooperation, radio spectrum management, standards development, and dissemination of information. They enjoin ITU members to engage in implementation of the WSIS outcomes, including the eleven action lines set out in the Annex to the Tunis Agenda for the Information Society, particularly those in which the ITU has been given lead coordination and facilitation responsibilities.

More concretely, the Doha Action Plan sets out:

- Six programmes (regulatory reform, technologies and telecommunications network development, e-strategies and e-services/ applications, economics and finance, human capacity building, and a special programme for the LDCs).

- Two activities (statistics and information on telecommunication, partnerships and promotion).

- Special and regional initiatives.

The plan contains a table cross-referencing all of these programmes and activities to the eleven action lines in the Tunis Agenda. However, it acknowledges that more than a simple cross-referencing of activities may need to be done to strengthen the links between the ITU's efforts to develop telecommunications and the WSIS plan to use telecommunications and other ICTs more effectively for development. It notes that "ITU-D functions may be reviewed taking into account WSIS outcomes."

In May 2006, in collaboration with the Korea Agency for Digital Opportunity and Promotion (KADO)[8] and the United Nations Conference on Trade and Development (UNCTAD),[9] the ITU Strategy and Policy Unit published the *World Information Society Report 2006* (ITU, 2006b). The general purpose of this report is to measure worldwide

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7 At the time, this body was known as the Administrative Committee on Coordination.

8 <www.kado.or.kr>.

9 <unctad.org>.

progress towards the information society, and in particular to chart progress towards the implementation of WSIS outcomes. To do this, the report's authors have developed a Digital Opportunity Index (DOI)[10] – a composite index composed of eleven indicators that measure opportunity (i.e. availability and cost of internet and ICT access networks), infrastructure (i.e. uptake of internet and ICT access technologies by households and individuals), and utilisation (i.e. the use made of these technologies for internet and ICT access as a proportion of total telecommunications use). The report uses the DOI to compare progress towards the information society in different countries and regions, as well as to identify different strategies and policy options.

In November 2006, the Antalya Plenipotentiary Conference adopted a resolution on "ITU's role in implementing the outcomes of the World Summit on the Information Society". This resolution instructs the secretary-general to:

- Take all necessary measures for the ITU to play a leading facilitating role in the overall WSIS implementation process, along with UNESCO and the UNDP.

- Lead in facilitating the implementation of the WSIS action lines relating to infrastructure development (C2) and cybersecurity (C5).

- Participate in the implementation of other action lines that fall within the ITU's mandate (essentially all the other action lines except those dealing with cultural and linguistic diversity, local content, media, and the ethical dimensions of the information society).

- Ensure that all of this is done in cooperation with other bodies involved in WSIS follow-up, in a coordinated fashion.

The resolution also instructs the directors of the three bureaus to support WSIS follow-up activities.

The ITU Council will receive annual progress reports from the Secretariat and will maintain the Working Group on the World Summit on the Information Society (WG-WSIS) that was set up during the summit process to provide ongoing guidance to follow-up activities.

Other ICT-related activities

As well as adopting a general resolution on the ITU's overall role in WSIS implementation, the Antalya Plenipotentiary Conference adopted a number of resolutions that address aspects of internet governance – one of the main topics of the Tunis phase of the Summit and a key area of WSIS follow-up that is of particular concern to developing countries and civil society.

- In recognition of the convergence that is taking place between telecommunications and the internet, particularly through the development of voice over internet protocol services (VoIP) and next generation networks (NGNs), Resolution 101 on "Internet-Protocol-based networks" resolves that the ITU shall clearly identify the range of internet-related issues that fall within its respon-

sibility, collaborate with other relevant organisations to maximise benefits of IP-based networks, and continue to study international internet connectivity as an urgent matter, as called for in the Tunis Agenda.

- More specifically in relation to the results of the WSIS, Resolution 102 on "ITUs role with regard to international public policy issues pertaining to the internet and the management of internet resources, including domain names and addresses" instructs the secretary-general to continue to take a significant role in international discussions and initiatives related to the management of internet names, addresses and other resources, and to take the steps necessary for the ITU to continue to play a facilitating role in the coordination of international public policy issues pertaining to the internet, as expressed in the Tunis Agenda. The resolution also instructs the directors of the standardisation and development bureaus to support these actions.

- Resolution 133 on the "Role of administrations of Member States in the management of internationalised (multilingual) domain names" instructs the secretary-general and the directors of the bureaus to take an active part in all international discussions, initiatives and activities on the deployment and management of internationalised domain names, in cooperation with relevant organisations.

- The Antalya Conference also updated Resolution 130 on "Strengthening the role of ITU in building confidence and security in the use of information technologies" to reflect the priority that the WSIS gave to this issue and the ITU's leadership role in the implementation of WSIS action line C5.

In addition to these resolutions on internet governance, the Antalya Conference adopted a number of other resolutions on ICTs and development, including resolutions on:

- Special measures for the least developed countries and small island developing states

- Assistance and support to countries in special need for rebuilding their telecommunications sector

- ICTs in the service of humanitarian assistance

- Support for the New Partnership for Africa's Development (NEPAD)

- Support for the Agenda for Connectivity in the Americas and Quito Action Plan

- Next generation network deployment in developing countries.

Ten days after the close of the Antalya Conference, ITU TELECOM WORLD 2006 opened in Hong Kong.[11] ITU world and regional TELECOM events combine exhibitions that showcase that latest ICT technologies with forums that feature high-level speakers and panellists from the private and public sectors. Under the overall theme of

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10 More information is available from: <www.itu.int/doi>.

11 <www.world2006.hk/en>.

"Living in the Digital World", the 2006 TELECOM world forum explored three domains: "digital lifestyle" (how current and future lifestyles are shaped by ICTs); "digital ecosystems" (how different kinds of companies interlink, cooperate and compete); and "digital society" (the challenges in maintaining a transparent regulatory environment and building an information society for all).

Because they are market-oriented events, TELECOMs provide an interesting point of comparison for other ITU activities, such as the Doha World Telecommunication Development Conference and the Antalya Plenipotentiary Conference, in terms of participants and programmes. Although there are echoes of WSIS in the TELECOM WORLD 2006 forum programme and some developing country speakers in the digital society domain, the almost complete absence of developing country keynote speakers and panellists in the sessions on digital ecosystems and digital lifestyles reflects the very great differences of capacity that currently exist among countries and regions and the magnitude of the ICTs-for-development challenge.

Stakeholder participation

Key areas in which participation of civil society, Southern countries and women is an issue

In 2002, the Commonwealth Telecommunications Organisation and Panos London published *Louder Voices* (MacLean *et al*, 2002), a study of developing country participation in international ICT decision-making. This study noted that it is important to distinguish between the presence of developing countries, civil society, and women in international ICT decision-making forums on the one hand, and their effective participation on the other. The ITU, which was the subject of a *Louder Voices* institutional study, is a case in point.

Developing countries are present at many ITU meetings. They tend to be most strongly represented at the major conferences and assemblies, including those of the radiocommunication and standardisation sectors, and are well represented in all the activities of the development sector. However, presence does not equate to effective participation, which – as *Louder Voices* pointed out – requires capacities to forecast issues, conduct research, set agendas, coordinate action at national and regional levels, negotiate successfully before and during events, implement decisions, and evaluate results.

The situation regarding developing country participation is especially challenging in meetings dealing with technical matters. This is particularly the case in the standardisation sector where, with the exception of the study groups dealing with numbering and tariff questions, the work is done almost exclusively by representatives of sector members. Without the technical and financial capacities required to contribute to this work, or at least follow its development, there is little reason to be present. Many developing countries are therefore effectively excluded from some of the ITU's most important work. As indicated in the section on Southern partners and civil society participation, at present there are no radiocommunication or standardisation sector members from 110 of the ITU's 191 member states – and all 110 are developing countries.[12]

Civil society faces three main issues in seeking to participate in the work of the ITU: the ITU's membership structure, which has been described above; the cost of meeting attendance; and the ITU's working methods, which require its members to have significant technical capacities in order to contribute effectively to decision-making in many areas of activity.

In principle, ITU sector membership is open to both national and international civil society organisations. However, the requirement for all national entities and some kinds of regional and international organisations seeking sector membership to be approved by the governments of the countries where they are based, or alternatively by the ITU Council, may pose obstacles in some cases. The requirement to make financial contributions either as full sector members or as associates is an additional obstacle. Finally, the cost of attending the meetings where ITU members do their work and, in the case of the radiocommunication and standardisation sectors, the technical expertise required to contribute meaningfully to the work of the ITU may pose additional problems.

For civil society organisations, the work of the development sector is likely to be of most interest, and the one to which they can contribute most effectively. Financial barriers to ITU-D participation are also lower than in the other sectors.

In ITU-D, sector members can pay one eighth of a sector member unit – CHF 7,950 (USD 6,515) at current values – while sector members from LDCs are only obliged to contribute one sixteenth of a sector member unit, or CHF 3,975 (USD 3,257). ITU-D associates pay one twentieth of a sector member unit, CHF 3,180 (2,606), unless they are from LDCs, in which case they pay one fortieth, or CHF 1,590 (USD 1,303).

In ITU-R and ITU-T on the other hand, sector members must contribute at least one half a sector member unit as an annual membership fee – CHF 31,800 (USD 26,061) at current values. Associate status in these sectors may be a more attractive option than full sector membership, although the cost, CHF 10,600 (USD 8,688) in annual fees, may be prohibitive.

In addition to the cost of sector membership or associate status, the cost of ITU publications and the restrictions the ITU places on online access to some information resources, such as conference documents, may also constitute significant barriers to civil society engagement with ITU activities. Although ITU membership includes certain privileges, such as a 15% discount on the price of hard copy publications, the value of these benefits in relation to their cost is unlikely to stimulate interest in sector membership or associate status among civil society organisations, which would need to pay thousands of Swiss francs annually in fees to save hundreds on the price of publications.

The WSIS process appears to have sensitised member states to the advantages of involving civil society in the work of the ITU – or at

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12 On the positive side, however, the fact that about 20% of the national members of the radiocommunication and standardisation sectors come from non-OECD countries may indicate that developing countries and regions that are in transition and/or have begun to develop requisite technical capacities are becoming increasingly engaged in the work of these sectors. A longitudinal study would be required to confirm whether this is in fact the case.

least in activities related to WSIS follow-up. While recognising the key role played by civil society entities and organisations in building the global information society, ITU member states are also concerned about the potential impact of greater civil society involvement on the intergovernmental character of the ITU, its current membership structure, and its finances.

The level of participation by women in the work of the ITU generally reflects their participation in international telecommunications policy-making in national governments, as well as their participation in the non-governmental entities and organisations that do much of the technical work of the ITU.

Although women from both developing and developed countries have assumed important leadership roles in the work of the ITU in recent years (e.g. as chairpersons of Council and Radiocommunication conferences), and although they are invariably present in at least limited numbers on the delegations of governments and sector members to ITU meetings, ITU events often have the appearance of being meetings of an "old boys club".

The current under-representation of women in the scientific and engineering professions that do much of the technical work of the ITU clearly limits the possibilities for greater gender balance in many forums. The development sector may be more fertile ground for increasing participation by women, particularly if it becomes less technical in its orientation and more closely attuned to the development mainstream.

Actions taken to ensure effective participation

In order to promote greater developing country participation in the technical work of the ITU, the Antalya Plenipotentiary Conference adopted Resolution 123 on "Bridging the standardisation gap between developing and developed countries". This resolution recognises that developing countries require a certain level of technical capacity in order to be able to apply ITU-R and ITU-T standards, quite apart from the capacity required to contribute to their development. It invites member states and sector members to contribute to a fund that would help bridge the standardisation gap and to otherwise support actions taken by the secretary-general and the directors to this end.

With respect to civil society participation, the Antalya Conference adopted a resolution concerning "Study of the participation of all relevant stakeholders in the activities of the Union related to the World Summit on the Information Society" (ITU, 2006c). This resolution instructs the Council to set up a working group, open to all ITU member states, to undertake consultations and prepare a final report, well in advance of the next plenipotentiary conference in 2010. The terms of reference of this working group include:

- Establishing a set a criteria for defining which stakeholders are relevant to participate in ITU activities related to the WSIS.
- Analysing the definitions of sector member and associate and the related provisions of the legal instruments of the ITU and how they could be amended as necessary and applied to enhance ITU membership.

- Reviewing existing mechanisms – such as partnerships, symposiums, seminars, workshops, focus groups, policy forums and experts – in order to consider how they could be used more effectively and to identify possible new mechanisms to broaden participation.
- Identifying efforts that may be needed to mobilise and ensure the meaningful participation of all relevant stakeholders from developing countries, as well as other stakeholders in the development field.
- Drafting possible amendments to the ITU Constitution and Convention in order to facilitate participation by relevant stakeholders.
- Identifying the spheres of competence that member states reserve for themselves with respect to WSIS stakeholders.
- Considering the financial obligations and consequences arising from broader participation of relevant stakeholders in ITU's WSIS-related activities.

Nothing is included, however, on the need to bring ITU into line with ECOSOC resolutions concerning the participation of NGOs, and the modalities that apply across the UN system.

Insofar as *participation by women* is concerned, as mentioned earlier, the Antalya Conference adopted Resolution 70 on "Gender mainstreaming in ITU and promotion of gender equality towards all-inclusive information societies". As well as instructing the secretary-general to pursue gender mainstreaming policies and practices within the ITU Secretariat, this resolution encourages member states and sector members to review their own policies and practices to ensure that recruitment, employment, training and advancement of women and men are undertaken on a fair and equitable basis, and to facilitate the employment of women and men equally in the telecommunications field.

Conclusions and recommendations

General conclusions

The *Louder Voices* report made a number of recommendations concerning the actions that international ICT decision-making bodies could take to enhance participation by developing country stakeholders, including governments, the private sector and civil society. These included actions to increase:

- Awareness of issues
- Access to information
- Transparency of proceedings
- Participation by different stakeholders
- Capacity-building.

In the four years that have passed since *Louder Voices* was published, and at least partly as a result of the WSIS, the ITU has improved its performance in a number of these areas.

The WSIS process, which was originated and spearheaded by the ITU, succeeded in *raising awareness* among developing country decision-makers of the links between ICTs and development, as well as the importance of developing sound national ICT policies and participating effectively in international ICT forums.

The ITU Secretariat – particularly the Strategy and Policy Unit (SPU) in the secretary-general's office and the BDT – has contributed to raising awareness and to improving *access to information* on ICT issues by publishing well-documented, readable reports on trends and developments in technology and regulation that include assessments of the implications of these trends for developing countries. In addition, these two units have made good use of the internet to provide online access to these and other information resources.

However, unlike most other organisations – which provide free access to the electronic versions of reports similar to the BDT's *World Telecommunication Development Report* and the SPU's *Internet Reports* and *World Information Society Report* – ITU policy still requires the costs associated with these reports and other publications to be recovered from purchasers, thereby creating potential barriers in access to information in developing countries and civil society organisations.

The ITU Council agreed at its April 2006 session to make an at least temporary exception to this rule when it decided to make ITU-T standards freely available online on an experimental basis for one year, after which it will evaluate the results. Although ITU-T standards are the ITU's most valuable information product in terms of sales revenues, the practice of charging for them is out of step with the practice of many other standards organisations and potentially limits their use, particularly by students and researchers, to the detriment of the ITU.

The ITU has also made use of web-based tools to somewhat improve the *transparency of proceedings* for its own members by providing audiocasts and videocasts of some of its meetings, including the Antalya Plenipotentiary Conference. However, this is a limited transparency since webcasts are password protected and not available to the general public.

In recent years the ITU has sought to widen the scope for *participation by members representing different stakeholders* by eliminating restrictions that prevented sector members from attending plenipotentiary and radiocommunication conferences in their own right as observers, instead of as members of national delegations. The 2006 Antalya Plenipotentiary Conference furthered this process by consolidating and harmonising the detailed rules governing attendance and participation by observers at ITU meetings across the three sectors, and by permitting sector members to attend meetings of the Council and its committees and working groups as observers.

Capacity-building has long been one of the core activities of ITU development programmes, and symposiums, workshops, seminars, and training courses of varying durations are one of the principal activities of the BDT today. In addition to the technical capacity-building traditionally provided by the ITU, the BDT has for a number of years sponsored an annual Global Symposium for Regulators and under-

taken other activities aimed at building regulatory capacity in developing countries, such as the ICT Regulation Toolkit it sponsors in conjunction with the World Bank. As well, as mentioned above, the Radiocommunication and Standardisation Bureaus also undertake capacity-building activities related to their work programmes, while the Strategic Planning Unit organises workshops and symposia under the secretary-general's New Initiatives Programme to provide information and analysis on emerging trends and issues.

To date, these improvements have benefited mainly those who are already "members of the club" – ITU member states, sector members and associates. They have been of less benefit to members of the many other communities of interest that have come to see telecommunications as a very important part of the process of linking ICTs with development, and who consequently would like to have easier access to the ITU and to be included in its deliberative processes.

The WSIS process fuelled this interest and heightened expectations that the ITU would continue to build bridges between different stakeholders following the summit's successful conclusion. The past year, 2006, was the ITU's first opportunity to respond. So how did it do?

Conclusions on performance
in relation to ICT roles and responsibilities

Taking a leadership role on behalf of the UN system in organising the WSIS and implementing its results was a major step for the ITU – and quite out of keeping with the organisation's past practice, which has been to concentrate on its core technical missions as much as possible while avoiding entanglement with contentious policy/political issues of the kind that often preoccupy the United Nations, and which were present to some degree in the WSIS process.

Having taken this risk and obtained a better result than many expected, ITU member states were faced in 2006 with the question of "what next" in terms of both the ITU's role in building stronger linkages between ICTs and development through the WSIS follow-up process and in reflecting the WSIS legacy of multi-stakeholder engagement in its organisational structures and working methods.

Overall, the results of the Antalya Plenipotentiary Conference as expressed in its Final Acts appear to indicate that ITU member states have agreed to incorporate the results of the WSIS in their long-range plans and ongoing work programmes – but that they do not intend to make major changes to organisational priorities or resource allocations because of it. In particular, it is striking that Resolution 71, "Strategic plan for the Union, 2008-11", makes only passing reference to the WSIS, even in the section on the development sector, and that Decision 5, "Income and expenditure for the Union for the period 2008 to 2011", indicates that no additional financial resources will be allocated to WSIS outcomes.

It is also noteworthy that various proposals to the Conference to expand the ITU's mandate to include ICTs as a whole were referred to the ITU Council for further study. Likewise, as will be discussed in the following section, the Conference decided to take a cautious approach to the question of enhancing civil society participation in ITU activities, in terms of both process and scope.

While the overall results of Antalya suggest a somewhat "business as usual" approach in which the ITU intends to fit the results of the WSIS into its activities to the extent possible – rather than using these results to transform what it does and how it is structured or operates – some of the decisions taken at the conference appear to indicate a growing capacity of developing countries and regions to pursue their agendas and advance their interests, at least with respect to some issues.

Building on the results of the WSIS process, it appears that a significant group of developing countries and regions was able to put together and maintain a coalition that not only determined the results of the elections for some of the key management posts, but also shaped ITU strategy with respect to the potential impact of the internet on international telecommunications policy and regulation, as expressed in the resolutions discussed above.

Taken together, these internet-related resolutions appear to express a determination on the part of a significant number of member states, primarily developing countries, to ensure that the ITU and its member states play a larger role in a number of different aspects of internet governance. The ultimate scope of these ambitions may be evident when these internet-related resolutions are read in conjunction with two other resolutions, which respectively call for a World Telecommunications Policy Forum in 2009 to discuss the implications for international telecommunications policy and regulation of convergence, the internet and NGNs, followed by a World Conference on International Telecommunication in 2012 to review the International Telecommunication Regulations in light of these implications. At the same time, however, the way in which all of these resolutions are drafted also gives plenty of scope for ITU member states that are less enthusiastic about gaining a greater role in internet governance or enlarging the scope of telecommunication regulations to pursue their agendas.

In sum, it appears that the debates that began during the WSIS process about the ITU's roles and responsibilities in relation to ICT and internet governance are likely to continue for the next several years.

Conclusions on performance
in relation to modalities and practices of participation

The ITU has made progress in recent years in increasing the total number of non-governmental entities and organisations that participate in its work as sector members and associates, as well as the number that come from developing countries and regions. In addition, as mentioned above, it has improved the transparency of its proceedings, at least within the organisation, by enhancing the rights of sector members to participate in conferences and meetings, and by providing online access to some events.

As described earlier, the ITU Secretariat has taken significant steps to make better information available on the technical, regulatory, and policy issues facing the organisation and its members. It has done this through reports such as the annual World Telecommunications Development Report and the series of internet reports, as well as

through mechanisms such as the secretary-general's New Initiatives Programme, which sponsors workshops and seminars on emerging issues. In many cases, these activities have been undertaken in partnership with entities, organisations and other sources of expertise from outside the ITU. These actions and initiatives have helped raise awareness of key issues within the organisation, provided members with better information on matters requiring decisions, and contributed to capacity-building. Some of this information has also been made available free of charge to non-ITU members.

In spite of this progress, as noted in previous sections the ITU faces significant challenges in seeking to live up to the standards and expectations for organisational transparency and multi-stakeholder engagement created by the WSIS process – particularly with respect to engagement with civil society.

As reported above, at the Antalya Plenipotentiary Conference ITU member states recognised the benefits that such engagement could bring and launched a process to study ways and means of enhancing participation through amendments to the existing membership structure and increased use of informal mechanisms. While this may indicate a new openness, it is important to note that this study will be confined to WSIS-related activities, that it will be conducted by member states, who will determine which stakeholders are relevant to these activities and what spheres of competence will remain the exclusive preserve of member states, and that the results will not be final until 2010.

Recommendations

The Antalya Plenipotentiary Conference clearly addressed the main issues facing the ITU as a result of the WSIS, with respect both to its roles and responsibilities in linking ICTs and the global development agenda, and to the challenges it faces in engaging all relevant stakeholders more fully and effectively in its work. However, it just as clearly addressed these issues by thinking "inside the box", i.e., by seeking to accommodate these issues within its established structures, working methods and governance processes.

If the ITU's experience over the past two decades in seeking to adapt to "the changing telecommunications environment" is any guide, the results of this approach are likely to be mixed at best. During this period of time, the ITU has made significant progress in responding to the technical challenges and opportunities that have arisen from the transformation of the telecommunications sector into a competitive global business characterised by rapid innovation and the convergence of formerly distinct networks and services. For much of this time, however, the ITU was much less successful in responding to the development challenges and opportunities that arose from these changes, and lost its policy leadership to other organisations that represented new approaches to linking ICTs and development that were more in tune with the times.

By systematically introducing multi-stakeholder approaches in all of the issue areas that came under its purview, the WSIS potentially marks another turning point in the evolution of global ICT and development policy. The ITU's leadership role in the WSIS follow-up

process gives it an opportunity to give real and continuing effect to the new objective that was added to the ITU Constitution in 1992: "to promote, at the international level, the adoption of a broader approach to the issues of telecommunications in the global information economy and society, by cooperating with other world and regional intergovernmental organisations and those non-governmental organisations concerned with telecommunications." To do this, however, it will likely have to think "outside the box" in relation to its organisational structures, working methods and governance processes to a much greater degree than was evident in the results of the Antalya Conference (McLean, 2003 and 2007 forthcoming).

As part of this process, ITU member states, sector members and associates who support the goals of enhanced participation should find ways of reaching out to stakeholders who are not currently ITU members, and should include them through the various means available in the discussions and decision-making processes that will take place during the next four years, for instance, through national consultations or by including them in delegations to ITU meetings. For their part, stakeholders with an interest in becoming involved in the work of the ITU should consider taking the initiative of reaching out to the administrations of member states that are likely to be sympathetic to their cause, as well as to sector members and associates, to offer their expertise and support to the ITU reform process. ■

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Internet Corporation for Assigned Names and Numbers (ICANN)

Jeanette Hofmann

Introduction

Objectives and main activities

ICANN is responsible, at the overall level, for the administration of three sets of unique identifier systems for the internet: domain names, numerical internet protocol (IP) addresses, and a third type that serves to identify so-called port and parameter numbers.

The administration of the generic part of the domain name system (DNS)[1] forms the core of ICANN's activities. Country code top-level domains (ccTLDs) are predominantly managed at the national level, while policies for the allocation of IP addresses are autonomously devised by the regional internet registries (RIRs).[2]

At the time of ICANN's inception, the administration of the DNS was regarded as primarily technical. More recently, however, ICANN is seen as a regulatory body whose policies shape the market for the registration of domain names and set the conditions for creating new top-level domains (TLDs).[3] Although technical and regulatory tasks may overlap, regulatory bodies require a different type of policy process and membership than do technical organisations.

Legal/constitutional composition

ICANN was founded in 1998 as a California-based not-for-profit corporation. Its mandate derives from two short-term contracts with the United States (US) government. The Internet Assigned Numbers Authority (IANA)[4] oversees the global allocation of IP addresses, the root zone management of the DNS, and the assignment of technical protocol parameters used in various internet protocols; IANA can be likened to a global administrator of internet protocols. It is operated by ICANN under a contract with the US government, the "IANA contract" (NTIA, 2006). The other contract between the US government and ICANN is a memorandum of understanding (MoU) (NTIA, 1998) that specifies tasks for ICANN to accomplish as a pre-condition for the privatisation of internet names and numbers administration. Privatisation in this context means the transition of currently public responsibilities to a private, not-for-profit entity. Since 1997, the US government has claimed supervision authority over the management of the DNS and IP address allocation. At present it is unclear when and what part of its regulatory authority the US government intends to privatise.

WEBSITE:	www.icann.org
HEADQUARTERS:	Marina del Rey (CA), United States of America
FOUNDED:	1998
UN STATUS:	No formal status
TYPE:	Non-profit private corporation

ICANN implements regulatory policies through contracts with the "rule takers", i.e. businesses providing services related to internet names or number spaces. While all registries for generic TLDs (gTLDs) and all large registrars have signed contracts, other organisations have been more hesitant. Independent actors such as the RIRs and root server[5] operators, as well as many ccTLD registries, reject the idea of delegating regional authority to a central entity which is ultimately subject to California law and the authority of the US government. The root server operators, in particular, have so far refused to enter contractual agreements with ICANN. Others such as the RIRs were able to negotiate a memorandum of understanding that preserves substantial policy responsibility with the Number Resource Organisation (NRO),[6] the organisation that represents the internet addressing community.[7]

Key members/participants and decision-making structures

The MoU between the US government and ICANN mandates a bottom-up policy process that involves all stakeholders in the management of the DNS and IP addresses, including users. Reflecting the widespread anti-state spirit on the net during the 1990s, which was even shared by parts of the Clinton administration (1993-2001), the public interest was to be represented by individual users. Governments – with the significant exception of the US government – would be involved only in an advisory capacity. Accordingly, ICANN's original bylaws stipulated that nearly half of the seats on the Board of Directors would be filled through a process to represent individual users. The other half would represent the emerging service industry surrounding the DNS and IP address allocation. Supporting organisations consisting of various stakeholder groups would be responsible for policy development. Individual users would form an At-Large Membership.

In the course of an organisational reform in 2002, ICANN suspended the model of a balanced representation of the private sector and civil society. Individual users' representation on the Board is now reduced to a single non-voting liaison. Figure 1 describes the structure of ICANN and how the various entities are represented on the

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1   More information is available from: <en.wikipedia.org/wiki/Domain_Name_System>

2   A comprehensive definition of RIRs is available from: <en.wikipedia.org/wiki/Regional_Internet_Registry>

3   TLDs are the domain names at the top of the DNS naming hierarchy. TLDs appear in domain names as the string of letters following the last (rightmost) period. See <www.pir.org/Glossary/Glossary.aspx> for a comprehensive definition of TLD, gTLD and ccTLD.

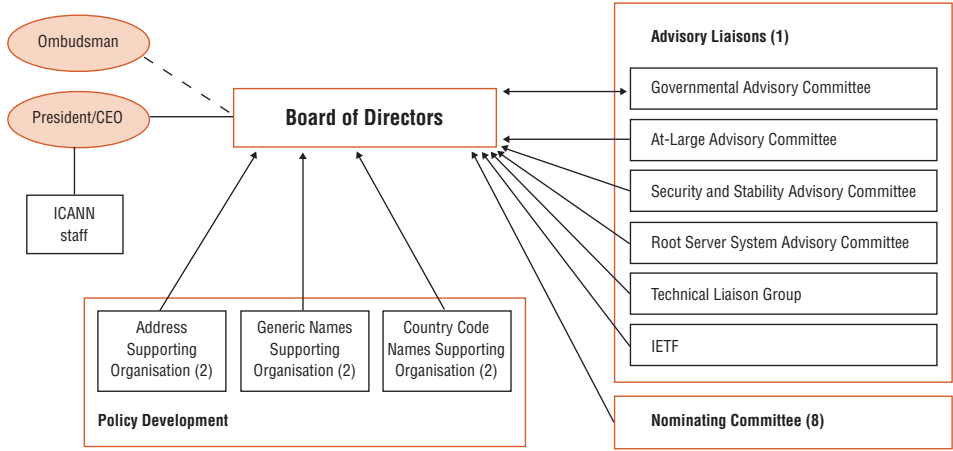4   <www.iana.org>.

5   See <en.wikipedia.org/wiki/Root_servers>.

6   <www.nro.net>.

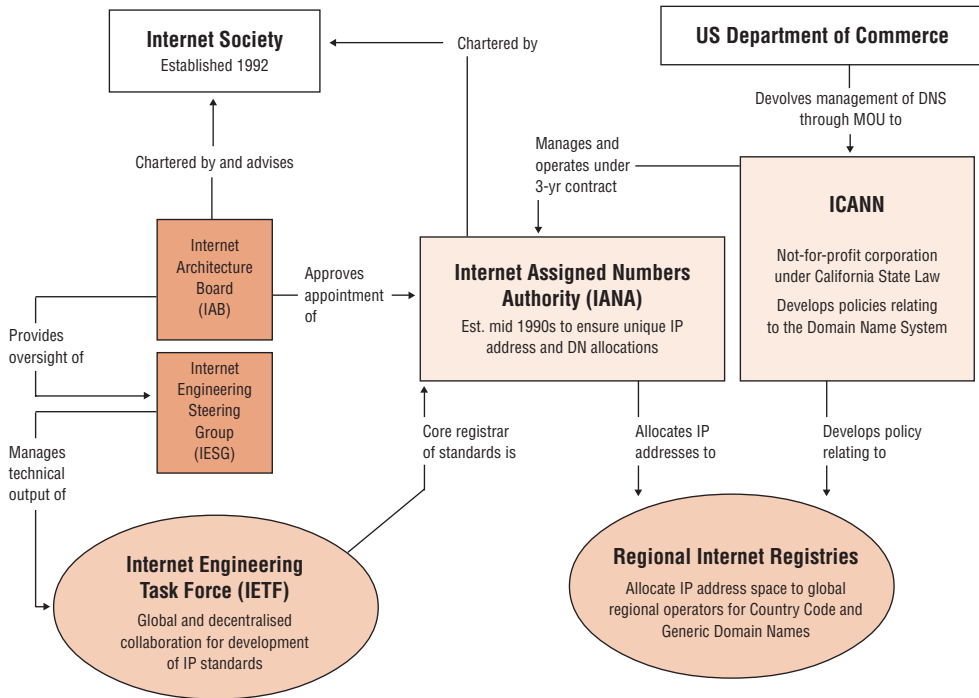7   More information about the stages of the negotiation between NRO and ICANN is available from: <www.nro.net/documents>.

Fig. 1: ICANN structure

Advisory Liaisons (1)

Governmental Advisory Committee

At-Large Advisory Committee

Security and Stability Advisory Committee

Root Server System Advisory Committee

Technical Liaison Group

IETF

Ombudsman

President/CEO

ICANN staff

Board of Directors

Address Supporting Organisation (2)

Generic Names Supporting Organisation (2)

Country Code Names Supporting Organisation (2)

Policy Development

Nominating Committee (8)

() indicates number of board seats.
President is an ex officio voting board member.

Source: Peake (2004)

Fig. 2: ICANN relations with other organisations

Internet Society
Established 1992

Chartered by

US Department of Commerce

Devolves management of DNS through MOU to

Chartered by and advises

Internet Architecture Board (IAB)

Approves appointment of

Manages and operates under 3-yr contract

ICANN
Not-for-profit corporation under California State Law
Develops policies relating to the Domain Name System

Provides oversight of

Internet Engineering Steering Group (IESG)

Internet Assigned Numbers Authority (IANA)
Est. mid 1990s to ensure unique IP address and DN allocations

Manages technical output of

Core registrar of standards is

Allocates IP addresses to

Develops policy relating to

Internet Engineering Task Force (IETF)
Global and decentralised collaboration for development of IP standards

Regional Internet Registries
Allocate IP address space to global regional operators for Country Code and Generic Domain Names

Source: London School of Economics (LSE) (2006)

The diagram provides a general overview of the relationship between ICANN and key global bodies responsible for developing internet technical standards. It is not an exhaustive representation of all organisations active in the technical standards community. The graphical dimensions given to each entity in the diagram do not reflect size or status.

Board of Directors. The Board consists of fifteen voting members, eight of which are chosen by a Nominating Committee and six by the supporting organisations. The number of non-voting liaison members can vary.[8]

Relations with other international institutions and the multilateral system

ICANN is a corporation subject to California law and reports to the US government. There are no formal relations between ICANN and other international organisations. However, some intergovernmental bodies such as the International Telecommunication Union (ITU) and the World Intellectual Property Organisation (WIPO) participate in the Governmental Advisory Committee (GAC)[9] of ICANN. The technical standard-setting bodies[10] also appoint one liaison to the ICANN Board of Directors. As a consequence of its participation in the World Summit on the Information Society (WSIS), ICANN pays more attention to international organisations and actively supports their work where it touches upon ICANN's ambit. However, ICANN forms an important node in the network of organisations responsible for the development and coordination of the internet infrastructure, as Figure 2 shows.

Commitment to development

ICANN, together with its supporting organisations, is involved in national capacity-building regarding operational functions related to IP addresses and the DNS. Examples are assistance in the operation of ccTLD registries and the establishment of LACNIC and AfriNIC, the regional registries for allocating IP addresses in the African and Latin American and Caribbean regions respectively.[11] ICANN has also established "regional presences" or liaisons in Africa, Asia, Latin America and the Middle East to strengthen its outreach and educational activities.

Commitment to gender equality

ICANN bylaws contain provisions for regional balance but not for gender balance. The term gender does not appear in its bylaws. However, due to the establishment of ICANN's Nominating Committee four years ago, the number of women in decision-making positions has increased.

Southern actors and civil society participation

Developing countries are underrepresented in all of ICANN's stakeholder groups. ICANN meetings do not take place at UN locations, which makes them expensive to attend for governments from developing countries. For civil society organisations, participation in international meetings is generally difficult to finance. ICANN has no budget for supporting participants from developing countries to attend its meetings.[12] Lack of capacity and competence is another reason why developing countries may not participate in ICANN or attend meetings even when they take place in their regions. From a developing-country perspective, there might also be more pressing issues to attend to – such as access to the internet – than participating in ICANN.

Civil society participates in ICANN through the At-Large Advisory Committee and the Non-Commercial User Constituency of the Generic Names Supporting Organisation. All in all, civil society participation in ICANN is rather low. Reasons for unsuccessful outreach efforts may have to do with the very specific and not easily comprehensible mission of ICANN, and the low interest of most users in the administration of the net's infrastructure, but also with the disfranchisement of individual users. Individuals have no votes in any of ICANN's decision-making bodies. They can achieve policy goals in ICANN only indirectly through the Nominating Committee or through lobbying other constituencies and supporting organisations.

Role and responsibilities in ICTs

General orientation and responsibilities towards ICT policies and actions

ICANN's communication services are based on addressing systems that carry out two crucial functions. First, they provide users or their communication devices with a unique identification; second, they provide information about the location of communication devices. The allocation of such identifiers requires global coordination to ensure that addresses are assigned only once and also in an efficient manner. The internet has two such identifier systems: IP addresses and domain names. ICANN is responsible for the overall coordination of these identifier systems. The term "coordination" refers to the fact that the actual assignment of numbers and the delegation of names is carried out by registries which are linked to ICANN through contracts.

ICANN's mission specifies three types of coordination related to internet names and number spaces. ICANN:

1. Coordinates the allocation and assignment of the three sets of unique identifiers for the internet, which are

    a. domain names (forming a system referred to as the DNS);

    b. internet protocol (IP) addresses and autonomous system (AS) numbers; and

    c. protocol port and parameter numbers.

2. Coordinates the operation and evolution of the DNS root name server system.

3. Coordinates policy development reasonably and appropriately related to these technical functions (ICANN, 2006a).

ICANN's responsibilities and orientation in the overall field of ICT policies were defined in the late 1990s and thus reflect a specific period in the evolution of the internet following the privatisation of the backbone, the central network that linked all the parts of the internet together, and its opening to the general public in the mid 1990s.[13]

The engineers who developed the DNS conceived domain names as arbitrary strings of characters without any direct relationship to names or marks in the real world. Domain names were meant to be "NOT natural language expressions" as Vint Cerf (2006) emphasised again at the first Internet Governance Forum in Athens in 2006. As Jon Postel (1994) put it in a memo that explains the DNS: "Concerns about 'rights' and 'ownership' of domains are inappropriate. It is appropriate to be concerned about 'responsibilities' and 'service' to the community." However, with the growth of the World Wide Web in

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8   The present composition of the ICANN Board of Directors is available from: <www.icann.org/general>.

9   <server.gac.icann.org/web>.

10 ITU, European Telecommunications Standards Institute, World Wide Web Consortium and Internet Architecture Board.

11 More information is available from: <www.iana.org/reports>.

12 Travel expenses are only borne for members of the Board of Directors and for members of councils who have been appointed by the Nominating Committee.

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13 For a comprehensive account of the regulation of the internet infrastructure see Mueller, 2002.

1992, domain names became very popular and quickly turned into tradable goods. Equivalents to famous names and protected marks in the name space became subject to escalating speculation and property rights conflicts. An informal market for domain names was emerging in the second half of the 1990s but there was no authority nor any rules to govern this new trade. The founding of ICANN in 1998 was the response to this lack of regulation.

The MoU specified the following tasks for ICANN to accomplish in collaboration with the US government:

- Develop policies for the allocation of internet addresses (IP numbers) and the assignment of other technical parameters

- Develop a plan for the introduction of competition in domain name registration services including an accrediting system for registrars

- Develop standards for the operation of generic TLDs

- Develop policies for the operation of root servers

- Develop a consensual mechanism for the delegation of new TLDs

- Establish a uniform procedure for the resolution of property rights conflicts over domain names

- Develop a review process that allows members of the internet community to appeal decisions by ICANN

- Develop a process for affected parties to participate in the formulation of policies regarding the technical management of the internet

- Develop membership mechanisms that "foster accountability to and representation of the global and functional diversity of the internet and its users" (NTIA, 1998).

Competition, "private bottom-up coordination" and international representation were some of the founding principles issued by the US government that have shaped ICANN's coordination tasks.

Throughout its founding years, ICANN stressed the operational or technical nature of its functions. More recently, its policy-making activities have become so predominantly visible that they can no longer be denied. For at least the "generic" part of the DNS, ICANN has evolved into a regulatory agency with price-setting and service-related standards defining responsibilities. While the ccTLDs are typically administrated and regulated at the national level, ICANN sets contract-based policies for gTLDs such as ".com", ".org" or ".net".[14]

However, ICANN's self-governance approach differs in several respects from traditional regulatory mandates in the telecommunication area. Most importantly, ICANN is not independent of either its "regulatees" or its supervisory agency. The regulated organisations – registrars and registries – not only participate in ICANN's policy-setting efforts as members of ICANN's constituencies, they also contribute significantly to ICANN's budget.[15] As a regulatory agency, ICANN is thus interwoven with and accountable to several actors with diverse or even antagonistic interests, the most influential of which are arguably the US government and the DNS service industry.

Specific responsibilities in relation to the WSIS

ICANN participated in the WSIS, though without any specific responsibilities. However, internet governance and the private self-regulatory approach that ICANN represents evolved into one of the major controversies in the first phase of the Summit. For this reason, ICANN attended the preparatory conferences, explaining its role, mission, guiding principles and organisational structure. ICANN also participated in the UN Working Group on Internet Governance and supported it financially. In its own ambit, ICANN launched a temporary working group on WSIS and organised several WSIS-related workshops at ICANN meetings.

Description and analysis of ICT activities

WSIS-related activities since the Tunis Summit

ICANN's post-WSIS activities have focused on the Internet Governance Forum. ICANN has participated in and allocated money in its budget to financially support the Advisory Group that assisted the UN secretary general in launching the first Forum meeting.[16] ICANN also co-organised several workshops at the first Forum meeting, which dealt with building capacity for participation in internet coordination and with multilingualism on the internet.

WSIS has clear repercussions for ICANN's further orientation. Its strategic plan for 2006 to 2009 reflects the outcome of WSIS both in terminology and concrete goals. It describes as future "challenges and opportunities" the development of appropriate structures and processes for a "post-WSIS ICANN" as well as "an appropriate role" for ICANN "in the broad group of international entities involved in internet functions" (ICANN, 2006c). As a result of WSIS, ICANN takes more notice of other international organisations related to information and communications technology (ICT) policies and may thus become more responsive to policy concerns outside its own mission. The same might be said of other organisations, so that regulatory competencies affecting the internet may in future interact on a more regular basis.

On a concrete level, ICANN plans in the near future to:

- Increase international participation in ICANN processes and offer translation into other languages

- Support regional capacity-building in the field of internet addressing and the DNS

- Improve and monitor ICANN's overall operational performance and that of its supporting organisations

- Audit its own openness, transparency and inclusiveness

- Deal in a systematic way with "end user issues" (complaint handling regarding registration of domain names)

- Pursue the deployment of internationalised domain names (also on the top level), and facilitate the introduction of new TLDs and a consensual WHOIS policy (see below).

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14 The allocation of domain names on the second level of ccTLDs is subject to national regulation. However, the US government claims final authority over the DNS root zone file and thus over what appears in the root (Peake, 2004).

15 Registries operate the database of top level domains. Registrars are responsible for the registration of domain names. About USD 20 million of ICANN's USD 34 million budget for the fiscal year 2006-2007 is expected to come from accredited registrars. Registries for gTLDs are budgeted for roughly USD 15 million. The address registries contribute USD 800,000, and the registries for ccTLDs account for USD 1.5 million (ICANN, 2006b).

16 With USD 200,000 according to the annual operating plan for the fiscal year 2006-07.

Other ICT-related activities

ICANN's regulatory activities centre on the provision of services particularly in the generic but also partly in the country-code domain name space. Examples of the regulation of existing services are the Uniform Dispute-Resolution Policy (UDRP)[17] and the WHOIS policy.[18]

The UDRP was introduced in 1999. It consists of an international online arbitration process for settling conflicting claims to domain names without resorting to national courts. The goal is to provide conflicting parties with a quick and low-cost resolution procedure. The scope of the UDRP is limited to domain names under gTLDs and a few ccTLDs. Furthermore, the UDRP only applies to claims made by trademark owners to domain names which have been registered and used in bad faith. Evaluations of the UDRP arbitration process (Froomkin, 2002; Geist, 2002) point out a systemic bias towards the complainants and thus a privileging of trademark-based claims over other rights.

The WHOIS policy pertains to a database that contains contact information of domain name registrants. For several years ICANN has struggled to consensually define mandatory rules regarding essential registrant data elements that must be made publicly available by registrars. Intellectual property organisations and some public authorities wish unrestricted access to the WHOIS database. However, the publication of WHOIS information potentially conflicts with data protection laws, which vary widely across countries. A report by the London School of Economics (LSE) estimates that volunteers in ICANN have spent approximately 39,000 hours on this issue since the first task force was initiated in 2001 (LSE, 2006, p. 66).

Examples of regulatory policies aimed at expanding or creating new markets are the delegation of new TLDs and the introduction of internationalised domain names (IDN). The 1998 MoU between the US government and ICANN already specified one of ICANN's tasks as the consideration of a process for the introduction of new gTLDs. In various pilots and trials that took place in 2000, 2004 and 2005, ICANN has to date delegated twelve new TLDs. However, there is still no established standard procedure for the future introduction of new gTLDs. The delegation of new TLDs has been a controversial issue for more than a decade, with some stakeholders arguing vigorously in favour of increasing the number of TLDs up to a technically feasible figure per year, and other stakeholders more or less against any additional TLDs. The supporting organisation for generic DNS issues in ICANN, the Generic Names Supporting Organisation (GNSO),[19] has now completed another policy development process, which endorses the introduction of additional TLDs and recommends policy principles for their selection and allocation (GNSO, 2006).

The DNS is based on the ASCII character set, which supports only Latin alphabet domain names.[20] In order to enable international use of the DNS, the Internet Engineering Task Force (IETF)[21] has developed a converting mechanism that allows for a translation of non-ASCII character domain names into ASCII-based names. Based on the technical specifications defined by the IETF (2003), ICANN devised guidelines for the use of those standards at the registry level.

All operators of an ICANN-accredited TLD (i.e. .com, .net, .org, .info, .biz, etc.) are required to comply with those guidelines in order to obtain approval for the registration of internationalised domain names. Tests for introducing internationalised TLDs are expected to be completed by the end of 2007.

Stakeholder participation

Key areas in which participation of civil society, Southern countries and women is an issue

Diversity in participation is especially important in the area of name space regulation. DNS policy issues such as the introduction of internationalised domain names (IDN) or decisions on data protection directly affect users' interests. Key decision-making bodies for DNS policy are currently the GNSO and the ICANN Board of Directors.

Another relevant area is the evolving structure of ICANN itself. ICANN is a prime example of new forms of multi-stakeholder organisation, but also of the various problems inherent in these new types of consensus-building entities. As the continuous changes in ICANN's sub-structures and procedures show, the goal of fair representation and legitimate decision-making is very difficult to achieve once the traditional UN principle of "one state, one vote" is discarded as a model.

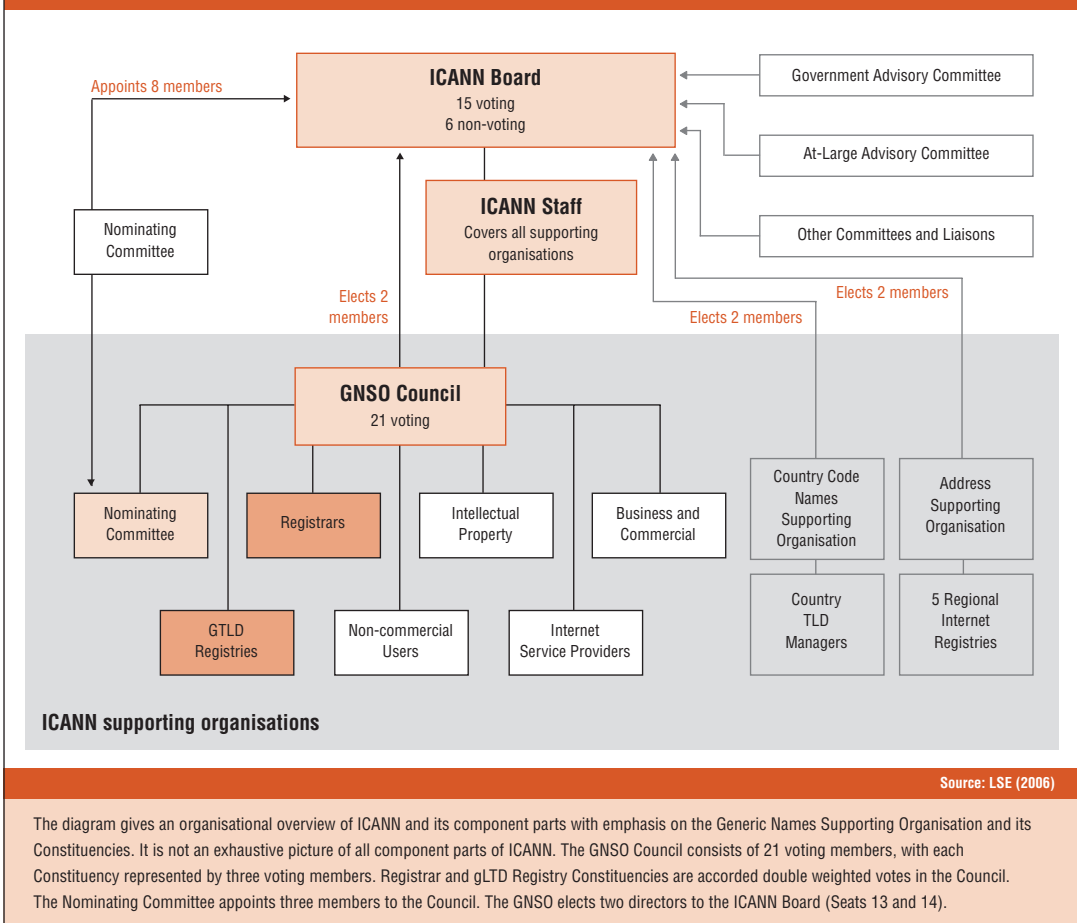### Actions taken to ensure effective participation of all stakeholders

A key element of ICANN's governance model is the principle of bottom-up consensus building.

Stakeholders relevant to the field of DNS and IP address management are involved in ICANN through supporting organisations. The ICANN bylaws identify the roles and responsibilities of the three supporting organisations: the Address Supporting Organisation, Country Code Names Supporting Organisation (ccNSO) and GNSO. They are each responsible for policy development in their respective areas. The structure of the supporting organisations and their relationship with ICANN differ considerably. The GNSO, responsible for gTLDs, is the largest and has the most differentiated structure. As Figure 3 shows, the GNSO consists of six "constituencies", which should represent the diversity of interests involved in or affected by the management of the domain name space. As the chart also shows, ICANN's constituency structure over-represents business interests. The Non-Commercial Users Constituency is the only group in the GNSO Council that articulates civil society interests.

As a result of ICANN's reform, a Policy Development Process (PDP) that covers issues in the purview of the GNSO and the ccNSO has been established. The PDP is part of the ICANN bylaws (Annex A and B) and specifies in detail the roles and responsibilities of the Board of Directors, the GNSO, the ccNSO and ICANN staff to ensure that decision-making processes go forward within a given time, but also that final decisions by the Board do indeed reflect the recommendations of the supporting organisations. In contrast to DNS policies, policies regarding the allocation of IP addresses are more or less autonomously developed by the Address Supporting Organisation.

Civil society groups have two channels in ICANN to influence the policy process. The first channel is the At-Large Advisory Committee (ALAC), which represents self-organising Regional At-Large Organisations (RALOs). ALAC was originally designed for individual internet users. In future it might represent both organisations and individuals. The task of the At-Large Membership is to offer advice on ICANN's regulatory activities. Unlike the other stakeholder groups in ICANN,

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17 See: <www.icann.org/udrp/udrp.htm>.

18 See: <www.spacereg.com/dc_eurid_whois_policy.pdf>.

19 See: <www.icann.org/committees>.

20 American standard code for information interchange (ASCII) is a code for representing Latin characters as numbers, with each letter assigned a number from 0 to 127. Unicode is an extension of ASCII.

21 <www.ietf.org>.

Fig. 3: ICANN organisational structure

The diagram gives an organisational overview of ICANN and its component parts with emphasis on the Generic Names Supporting Organisation and its Constituencies. It is not an exhaustive picture of all component parts of ICANN. The GNSO Council consists of 21 voting members, with each Constituency represented by three voting members. Registrar and gLTD Registry Constituencies are accorded double weighted votes in the Council. The Nominating Committee appoints three members to the Council. The GNSO elects two directors to the ICANN Board (Seats 13 and 14).

ALAC no longer has decision-making authority.[22] It is represented on the Board, as well in the GNSO, through non-voting liaisons.

The second channel of civil society participation is the Non-Commercial Users Constituency (NCUC),[23] one of the six constituencies that together form the GNSO. NCUC constitutes a minority on the GNSO Council, the organisation's decision-making body. The fact that the GNSO Council uses a weighted voting system, which favours the registrars and registries by giving their Council members two votes instead of one, further marginalises civil society perspectives in the GNSO.

ICANN's bylaws (Article VI: Sections 3-5) include "diversity provisions" for international representation. To ensure diversity, ICANN's by-laws specify five geographic regions,[24] all of which must be represented by at least one member of the Board, the various councils, and the Nominating Committee. There are no equivalent provisions to ensure gender diversity. For the At-Large Membership, geographic representation will be achieved through the five RALOs, which are intended to be umbrella entities for non-commercial organisations ("At-Large Structures") and individuals who take an interest and want to participate in ICANN. At present, all five RALOs are in the process of constituting themselves and negotiating a memorandum of understanding with ICANN.[25]

After WSIS, ICANN has strengthened its efforts to internationalise participation. To facilitate multilingual communication, relevant documents are to be translated into other languages. There are also plans to offer simultaneous interpretation at ICANN meetings. In addition, ICANN has initiated outreach programmes designed to contribute to regional capacity-building in the area of DNS and IP address management and to increase participation from under-represented regions.

Among the post-WSIS regional outreach activities are the newly established regional liaisons for each of ICANN's five world regions, the task of each being to form networks with and across all stakeholders, including national governments. The goal is to promote participation in ICANN but also to foster the emergence of regional DNS service industries and of user groups. In addition, ICANN created the position of a general manager for public participation to foster active participation by the various stakeholder groups.

22 ICANN's original bylaws from 1998 provided that the At-Large Membership would select roughly half of ICANN's Board seats. This provision was changed in 2002, in the course of the reform of ICANN.

23 <gnso.icann.org/non-commercial>.

24 Europe; Asia/Australia/Pacific; Latin America/Caribbean islands; Africa; and North America (Art. 6, Sect. 5).

25 In December 2006, LAC RALO, the Latin America and the Caribbean Regional At-Large Organisation, signed a Memorandum of Understanding with ICANN.

Until 2003, decision-making positions in ICANN were predominantly filled by the ICANN supporting organisations and their constituencies. In 2003, ICANN created a Nominating Committee, which selects eight members of ICANN's fifteen-member Board of Directors, as well as a "portion" of the GNSO and ccNSO Councils and the Interim ALAC. The purpose of the Nominating Committee is to broaden the existing mix of geography, culture, skills, experience, and perspective as derived from ICANN's supporting organisations. Due to the work of the Nominating Committee, the share of "ICANN outsiders" in decision-making positions has significantly increased and ICANN's Board and councils show a slightly increased participation of women, not least from developing countries.[26] Civil society has a strong voice in the Nominating Committee, with five of its members being selected by ALAC. Together with the representative of the Non-Commercial Users Constituency, civil society constitutes roughly a third of the voting members.

Effectiveness of efforts to increase stakeholder participation

ICANN's diversity provisions do ensure a degree of regional variety in decision-making positions. Its travel reimbursement policy for Board members and Nominating Committee appointees enables participation from developing countries and from civil society organisations. However, on the level of general participation without decision-making responsibility, both regional and sectoral diversity is much more limited. The majority of attendees at ICANN meetings are from OECD countries and related to the internet industry. ICANN does offer all stakeholders opportunities to participate, but the actual influence on the policy process varies significantly among the different groups. In particular, individuals and non-commercial internet users lack an effective voice in policy matters.

Fair representation and balance of interests is an issue especially in ICANN's most important supporting organisation, the GNSO. The representativeness, transparency and effectiveness of GNSO operations have recently been subject to an extensive evaluation conducted by the LSE. The LSE review comes to the conclusion that the current GNSO structure reflects a "snapshot of the interest groupings most active on generic names issues in the founding stages of ICANN in the late 1990s" (LSE, 2006, p. 423). Its constituency structure lacks the flexibility required to incorporate new stakeholders, and the individual constituencies are not easy for newcomers to find and to join. The report also notes that the majority of constituencies suffer from low participation and a lack of representativeness. Of the altogether 231 members of the GNSO, only a small fraction regularly participate. This means that policy recommendations on vital issues such as the conditions of use of domain names in gTLDs are developed by quite a small number of people.

The review recommends among many other things:

- Establishing a more flexible structure that is open and attractive to new stakeholder groups by reducing the number of GNSO constituencies from six to three (registration, business, and civil society including the now separate At-Large Membership).

- The creation of a primary, fee-based membership in ICANN so that it becomes actually possible to join the organisation and choose a constituency according to individual preferences.

- The strengthening of incentives for reaching consensus across the various interest groups through abolishing weighted voting and raising the threshold for consensus on the GNSO Council from 66% to 75%.

While a restructuring of the GNSO into three groups could well be a step forward to overcoming the antagonistic constellation in the GNSO, it bears the risk of codifying once again the minority position of civil society. By the same token, a membership fee might discriminate non-commercial users, particularly from developing countries. It is thus important that any new consensus-fostering mechanism gives adequate weight to civil society groups so that all views and interests are reflected in policy recommendations.

The WSIS Declaration calls for a multilateral, transparent and democratic management of the internet, with the full involvement of governments, the private sector, civil society and international organisations. The WSIS documents offer no further specification, however, about what is meant by "democratic management of the internet". ICANN has never described its processes as democratic, choosing instead to speak of "bottom-up consensus". Considering that democracy is still primarily a national form of organisation, some core elements of which cannot easily be implemented in transnational environments, it seems understandable that ICANN avoids this term. However, the implementation of and, even more so, the compliance with bottom-up decision-making processes turn out to be fairly ambitious goals, too. ICANN's policy decisions over the past years reveal several examples where the Board of Directors acted despite a lack of consensus in the GNSO or other parts of its constituency.[27] However, violations of constitutional decision-making procedures eventually undermine the legitimacy of an organisation. Another problem concerns the unequal distribution of power among ICANN's stakeholder groups. A full involvement of civil society in ICANN would require a restructuring of its bottom-up consensus-building process.

Conclusions and recommendations

General conclusions

ICANN is one of the prominent examples of multi-stakeholder coordination or "self-governance" in ICT. Eight years after its inception, a number of insights can be drawn from this new type of regulation.

Firstly, self-governance does not mean that governments disappear. Even if the US government lives up to its promise and eventually privatises DNS regulation, government(s) will still keep some control over the policy outcome. Private agencies cannot step outside the "shadow of hierarchy". They must comply with national laws, but they may also have to cope with political pressure, as ICANN had to in the battle over "triple X", the proposed TLD that would have created a virtual "red light district" on the internet. Despite political pressure that brought the contract negotiations to a halt in May 2006, in January 2007 ICANN published a new draft contract.[28]

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26 Three of the four female Board members were chosen by the Nominating Committee. The Nominating Committee has so far chosen eight Board members.

27 A current example concerns the renewal of contracts with the registries of gTLDs. A pro-competition, presumably user-friendly option would be to offer the registry services for re-bids. While the GNSO is working on a policy recommendation, the ICANN Board has indicated that it might decide on this matter beforehand.

28 After the ICANN Board had principally approved of the application for ".xxx" in 2005, the Board voted in 2006 against the agreement with the ICM registry. Following pressure from religious groups, governments intervened in the negotiation process and asked to suspend it. Parts of the discussion on ".xxx" within the U.S. Department of Commerce are publicly available from: <www.internetgovernance.org/pdf/xxx-foiapage.pdf>.

The current public-private arrangement is problematic for two reasons. The first concerns the US government's unilateral control over the DNS infrastructure and ICANN's activities. From a normative point of view, unilateral control over vital internet infrastructure resources is without a doubt less legitimate than an intergovernmental regime. However, as debates throughout the WSIS have shown, it is unclear how political responsibility for a global infrastructure can be distributed in a more equitable manner without resorting to the UN system. The much criticised unilateral control over the DNS may thus persist because governments cannot agree on an alternative and more legitimate solution.

A second problem pertains to accountability. Multi-stakeholder arrangements under public supervision tend to blur the responsibility for policy decisions. Again, ".xxx" provides a good example. If the division of labour between the government and the private agency is not clear-cut, it is difficult for affected parties to determine who can be held accountable for policies. On the other hand, there are limits to the capacity of self-regulation. In the event of a privatisation of ICANN, it will be vital to install reliable checks and balances to minimise the risk of abuses of regulatory authority.

A weak point of private multi-stakeholder organisations concerns issues of membership and representation. While national and international organisations aggregate opinions and interests by means of representation, ICANN has been struggling for years to develop its own approach to inclusiveness and fair representation. The most controversial issue has been the role of individual users. No doubt, ICANN intends to be inclusive and does recognise the legitimacy that derives from openness and broad participation. But ICANN equally fears negative consequences from weak organisational boundaries such as "capture" or manipulation and a loss of control over the process of policy development.

Thus ICANN still has an ambivalent stance on civil society participation. This is demonstrated by the disenfranchisement of the At-Large Membership after 2002 on the one hand and the substantial organisational and financial support for the newly founded ALAC on the other. ICANN supports the development of a complex civil society structure in ICANN but at the same time denies civil society direct influence on the policy process. Like other multi-stakeholder organisations, ICANN faces the challenge of balancing potentially conflicting values such as inclusiveness, consensus-orientation and effectiveness without having at their disposal the means and procedures of governmental institutions.

Compared to national or intergovernmental organisations, ICANN is a remarkably open and transparent organisation. Debates about controversial issues such as the WHOIS database can be observed on the internet. The meetings of most councils and task forces are open, and recordings or minutes are released on the internet. Even the ICANN Board of Directors has made efforts to become more transparent. Detailed minutes of Board meetings are published on the internet, and in the case of critical decisions, the individual votes of Board members are now published. Some directors even offer personal explanations for their votes.

Thanks to this high degree of transparency, the pros and cons of policy options in question are easier to understand and observers have the opportunity to develop informed opinions. What is more, transparency enables some degree of public control over the organisation's performance. ICANN's actions are closely monitored by a number of news services and blogs on the internet. Controversial policy decisions thus need to be justified. Because it enables public deliberation and some degree of accountability, transparency is at present regarded as a major source of legitimacy for private governance bodies. However, transparency can also turn into a source of de-legitimation. In the case of ICANN, transparency has led to a strong public awareness of its shortcomings.

Conclusions on performance in relation to ICT role and responsibilities

In 1998, when the first MoU between the US government and ICANN was agreed upon, the general expectation was that ICANN would accomplish its tasks within two years. However, the road towards privatisation of DNS management has turned out to be more difficult to navigate than expected. While some of the tasks were indeed implemented quickly, others are still on ICANN's "to-do list". In September 2006, the US government therefore amended the MoU for a seventh time.[29]

In 1999, ICANN introduced competition for the registration of domain names under gTLDs, established the Uniform Dispute Resolution Policy to deal with the "cybersquatting" of domain names of well-known organisations or products, and developed a participatory structure for the internet industry (supporting organisations). In 2000, ICANN approved several new TLDs and began setting standards for the operation of gTLDs. But since then, ICANN has failed to develop a general rules-based mechanism for the delegation of new TLDs. ICANN has also failed to create a membership organisation that fosters "accountability to and representation of" the diversity of internet users.

ICANN's self-governance structure proved able to create a new market for registration services, but it lacks the power to act against vested interests in this market and its own organisation. There is as yet only marginal competition between TLDs, and the existing registries have successfully delayed the creation of a process for the regular introduction of TLDs.

ICANN's overall acceptance depends on its problem-solving capacity, its inclusiveness and its ability to adequately reflect in its policy decisions the existing diversity of opinions. However, ICANN operates under severe restrictions, and the room for altering its structure and performance may therefore be limited. The self-governance approach implies that policies need the consent of the "rule takers". In some cases, this leads to non-transparent decision-making processes and biased results at the expense of users' interests.[30]

ICANN's current structure privileges the interests of one industry sector over the interests of users and future businesses. The privatisation of DNS regulation would require as a minimum a more balanced representation, a more efficient policy development process and stronger mechanisms of accountability.

Conclusions on the adequacy of modalities and practices of participation

Under ICANN's current structure, voting or decision-making rights are unequally distributed. Some stakeholder groups such as the individual users but also governments (though by their own choice) lack voting rights. Constituencies that have contractual relationships with

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29 More information is available from: <www.icann.org/general/agreements.htm>.

30 A recent example concerns the renewal of the contract for the TLD ".com". The draft contract as negotiated between ICANN and VeriSign evoked criticism from other stakeholders and was subsequently amended by the US government. More information is available from: <www.ntia.doc.gov/ntiahome/domainname/agreements/amend30_11292006.pdf> and <www.theregister.co.uk/2006/12/01/usg_approves_dotcom_contract>.

ICANN (registries and registrars) have more votes than those that do not. The method of differentiating political influence and allocating voting rights according to a stakeholder's share of the budget or similar criteria violates basic democratic principles and thus weakens the legitimacy of ICANN. All stakeholders participating in the policy-making process should be granted voting rights, and power asymmetries between constituencies should be avoided. Equal participation rights for individual users, as originally intended, would create an incentive for broader participation by civil society.

Concrete recommendations for improving the modalities of participation

- Non-commercial and individual user-related bodies in ICANN (NCUC, ALAC) should be merged into one civil society membership organisation. Regional chapters should be encouraged but not made mandatory. Hierarchical layers in the civil society body, both regional or functional, should be avoided.

- The GNSO should be restructured along the lines of the recommendations of the GNSO evaluation. However, incentives for consensus-building across the GNSO constituencies must include civil society as a third stakeholder.

- The ICANN Board and ICANN management must ensure that policy recommendations made by supporting organisations and councils are followed when explicitly required under the bylaws. In general, the ICANN Board and staff should respond more seriously to the public comments it invites on its policy proposals.

- In order to become more inclusive and attract new people across all regions and stakeholder groups, ICANN should produce policy briefs on relevant but complex and controversial issues that explain to newcomers the problem at hand and the various solutions under discussion. This would also be helpful for new members of the Board and councils.

Specific recommendations for improving performance

ICANN is still an emerging organisation, as is reflected in the regular modifications of its bylaws. In order to increase trust in the organisation's processes, it is vital to establish an equivalent to the rule of law. ICANN's formal rules and principles need to become more self-binding so that the organisation's decisions will be more predictable and participating stakeholders can rely on the organisation's actions. Another crucial component of the rule of law is a non-discriminatory and effective means to appeal against potential violations of the bylaws.

A possible and desirable side effect of a stronger "constitutionalisation" of ICANN would be a change in the balance of power between ICANN staff and the constituencies and councils working on a voluntary basis.

ICANN's decisions on the delegation of new TLDs, the renewal of contracts for TLDs, and its accreditation policies for registrars have allocation effects. So far, ICANN's policies indirectly favour a small number of mostly US-based registry businesses and large, globally-acting registrars, none of which are located in developing countries. Regional effects of accreditation policies or the selection of new TLDs should play a more important role in ICANN's decisions.[31] ∎

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31 To give one obvious example: the new type of regional TLDs such ".cat", which serve a local community, should be allowed to work with local registrars who cannot afford an ICANN accreditation.

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United Nations Educational, Scientific, and Cultural Organisation (UNESCO)

Seán Ó Siochrú

Introduction

Objectives and main activities

According to its Constitution, the purpose of UNESCO[1] is:

> …to contribute to peace and security by promoting collaboration among nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations (UNESCO, 2004).

More informally, its website describes its functions as a laboratory of ideas and a standard setter to forge agreements on emerging ethical issues, and as a clearinghouse for the dissemination and sharing of information and knowledge; it helps member states to build human and institutional capacities, and promotes international cooperation among its members in the fields of education, science, culture and communication.

UNESCO's main activities comprise prospective studies; transfer and sharing of knowledge; standards setting, including international and statutory instruments (declarations, conventions and recommendations); the provision of expertise to member states; and the exchange of specialised information.

Unlike some UN agencies, UNESCO did not emerge from a pragmatic need on the part of governments to coordinate their relations in a specific domain (such as the common management of the seas, or the coordination of post and of telecommunication). Rather, in the aftermath of the Second World War (1939-1945), it was founded on a broader idealist philosophy that "since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed." Such a remit has sometimes led it into highly politicised territory which, in the absence of a strong imperative on governments to continue engagement, can lead to some institutional fragility, a case in point being the withdrawal from UNESCO of the United States (US) and the United Kingdom (UK) during the 1980s (both have since rejoined, as will be discussed below).

Legal/constitutional composition

UNESCO was founded in November 1945 as a specialised UN agency (under Articles 104, 105 of the UN Charter, agreed a few months earlier), and is guided by its Constitution.

WEBSITE:	www.unesco.org
HEADQUARTERS:	Paris, France
FOUNDED:	1945
UN STATUS:	UN specialised agency
TYPE:	Intergovernmental organisation (192 member states an 6 associate members)

Key members/participants and decision-making structures

UNESCO currently has 192 member states and 6 associate members. UN membership automatically confers the right to membership of UNESCO.[2]

The UNESCO General Conference comprises representatives from member states. It meets every two years to determine the policies and main lines of work of the organisation and is attended by member states and associate members, together with observers for non-member states, intergovernmental organisations, and non-governmental organisations (NGOs). Each country has one vote, irrespective of its size or the extent of its contribution to the budget.

The General Conference sets out the programmes and the budget of UNESCO, elects members of the Executive Board and appoints, every four years, the director-general.

The Executive Board, comprising 58 elected members, meets twice a year and in effect manages UNESCO, implementing the tasks assigned by the General Conference every two years. Other Board functions stem from agreements concluded between UNESCO and the UN, the specialised agencies, and other intergovernmental organisations.

The director-general is the executive head of the organisation.

Relations with other international institutions and the multilateral system

As a specialised UN agency, its formal links are generally established through the UN system, and in particular the Economic and Social Committee (ECOSOC).[3] Members of other UN agencies have a right to attend UNESCO conferences and other events.

Its remit regularly brings it into collaboration with other specialised agencies and UN programmes, and such collaboration is frequent and often over an extended period, for instance, with the World Intellectual Property Organisation (WIPO), the International Telecommunication Union (ITU), the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Development Programme (UNDP).

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1 <www.unesco.org>.

2 The list of UNESCO member states is available from: <erc.unesco.org/cp/MSList_alpha.asp?lg=E>.

3 <www.un.org/docs/ecosoc>.

Commitment to development

The UNESCO Constitution and later legal instruments do not specifically refer to a commitment to development, and indeed development per se is not among its key goals. However, many of its declarations, conventions and recommendations do have implicit and explicit developmental components, and developing countries are often singled out for special support.

Its programmes prioritise least-developed countries (LDCs) and poverty reduction. The Medium-Term Strategy for 2002-2007 includes a cross-cutting theme on "Eradication of poverty, especially extreme poverty", and a specific commitment to prioritise LDCs across all its programmes (UNESCO, 2002a).

Programme V on Communication and Information, for instance, gives priority attention to the needs of LDCs and Africa "in such areas as capacity-building, ICT applications in community development including water management and ICT literacy, to sustain UNESCO's contribution to NEPAD [New Partnership for Africa's Development]" (UNESCO, 2006a).

UNESCO also frequently facilitates the participation of actors from developing countries in its meetings and events, by supporting travel and subsistence and by organising global and regional events in developing countries.

Commitment to gender equality

Similarly, UNESCO does not have a core legal instrument regarding gender equality, but its gender mainstreaming policy is defined in the organisation's Medium-Term Strategy for 2002-2007. In addition, UNESCO's Gender Mainstreaming Implementation Framework (GMIF) for 2002-2007 offers guidelines on how to implement the policy commitment (UNESCO, 2002b).

The framework was developed by the Section for Women and Gender Equality, with a staff of four and linked to designated gender focal points in Paris and field offices. Its goal is the overall integration of gender equality issues within UNESCO's programmes, and it also maintains a Mainstreaming Resource Centre directed towards supporting policy-makers in this area.

Within the Communication and Information Programme, gender concerns have been mainstreamed with special emphasis on "training, improving community access to information, knowledge and skills and increasing the capacity of professionals to produce and disseminate development messages" (UNESCO, 2006a).

Southern actors and civil society participation

The UNESCO Constitution defines the basis for cooperation with NGOs. UNESCO "may make suitable arrangements for consultation and co-operation with non-governmental organisations concerned with matters within its competence, and may invite them to undertake specific tasks. Such cooperation may also include appropriate participation by representatives of such organisations on advisory committees set up by the General Conference" (UNESCO, 2004, Article 11, para. 4).

Over the years, UNESCO has developed (and occasionally reviewed and amended) an elaborate system of NGO participation

– some say at times too elaborate – and General Conference Directives of 1995 and 2001 govern the current situation. Relations can be of two kinds, formal or operational, depending on the role and structure of the NGO concerned and their record on cooperation.

At present UNESCO maintains official relations with 337 international NGOs and 26 foundations. Of these, about 15% are based in developing countries, just a handful in the least developed. Although many are international associations with members globally, it is still a small proportion.

A feature unique to UNESCO is the UNESCO Clubs and Associations established at the national level to informally engage a wide range of actors on UNESCO issues; these actors may also participate in UNESCO as NGOs. There are now 4,000 associations, centres and clubs in about 100 countries, and at the international level, a World Federation of UNESCO Clubs, Centres and Associations (WFUCA).[4]

Official UNESCO Commissions also exist in all 192 member states and can act as a means to extend outreach into civil society at the national level. These are governed under a specific charter approved by the General Conference in 1978, and their function is "to involve in UNESCO's activities the various ministerial departments, agencies, institutions, organisations and individuals working for the advancement of education, science, culture and information" (UNESCO, 2002c).

With regard to participation of Southern actors, UNESCO, as noted, has no specific structural features but has a stated commitment to support such actors and builds in participation through a variety of modalities.

Role and responsibilities in ICTs

Legal and constitutional basis

Communication is the central instrument by which UNESCO achieves its mission. Article 1 of the Constitution states that to realise this purpose the organisation will "(a) Collaborate in the work of advancing the mutual knowledge and understanding of peoples, through all means of mass communication and to that end recommend such international agreements as may be necessary to promote the free flow of ideas by word and image."

ICT-related activities

Given such a general remit, it is not surprising that UNESCO has been involved – and occasionally embroiled – in information and communications technology (ICT) and media issues throughout its evolution.

From the late 1960s, satellite broadcasting across borders was a key political issue, and UNESCO responded in 1972 with the adoption of the Declaration of Guiding Principles on the Use of Satellite Broadcasting for the Free Flow of Information, the Spread of Education and Greater Cultural Exchange (UNESCO, 1972). Although promoting the principle of free flow, it also affirmed the principle of national prior

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4   More information available from: <portal.unesco.org/unesco/ev.php?URL_ID= 17389&URL_DO=DO_TOPIC&URL_SECTION=201&reload=1069844420>.

consent. As a declaration it was not binding, but the list of seven countries opposing it – they included the UK, the US, Australia, Germany and Canada – suggests that a cold war fracture was already opening. In 1974, along with WIPO, UNESCO oversaw a further convention on satellites, the purpose of which was to protect copyright owners of broadcast signals; the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite came into force in 1979. To some extent the contrast between these instruments is indicative of a shift in concerns away from balancing sovereignty against free flow, towards an emphasis on property rights, a move that was part of a wider global dynamic.

However, international differences in these instruments were merely a prelude to UNESCO's involvement in the New World Information and Communication Order (NWICO) debate. This debate, initiated in the mid-1970s and led initially by the Non-Aligned Movement,[5] focused on the impact of Northern-dominated media on development, though many other issues were involved at different stages. UNESCO took it up in 1976, and in 1978 the General Conference agreed a Declaration of Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racialism, Apartheid and Incitement to War.

Despite this agreement, major divisions soon emerged and an independent commission was established to come forward with recommendations. The result was a report called *Many Voices, One World*, presented to the General Conference in 1980 (MacBride *et al.* 1980). It considered media and communication in the widest sense and put forward a series of proposals. Unfortunately, the debate became embroiled in cold war politics, and distorted by commercial and political media interests, descending rapidly into fractious argument. Largely as a result, the US pulled out of UNESCO in 1984, followed by the UK, its strongest ally, the following year. Although NWICO continued on the UNESCO agenda for some time, it was finally replaced, following a vigorous debate at the 1989 General Conference, by the New Communication Strategy. Neither UNESCO nor any other UN institution has since hosted such a wide-ranging debate on media and communication.

In 1990, as a result of an internal restructuring exercise, UNESCO's Communication and Information Sector (CI) was established, consisting of the Communications Development Division, the Division for Freedom of Expression, Democracy and Peace, and the Information Society Division.

The CI provides the secretariat for two intergovernmental programmes: the International Programme for the Development of Communication (IPDC) and the Information for All Programme (IFAP).

The IPDC, established in 1980, was seen by many as a pragmatic alternative to NWICO. In its first 25 years, it has dispensed USD 92 million to more than 1,100 media development projects, granting just over USD 3 million to 120 national and regional projects globally

in the year 2004/2005. The IFAP was established in 2001 as a platform for debate and action to help reduce the "digital divide" and to promote universal access. It has so far generated almost USD 2 million in funds, and approved 24 projects during 2005.

Each programme has a board consisting of a number of member states (39 for IPDC and 26 for IFAP), elected by the General Conference.

Operationally, the CI implements a set of actions that include funding Chairs in Informatics, supporting electronic educational networks, digitising public domain information, training in ICTs, offering advice on developing information policies, and running, with the ITU, Regional Symposiums on Telematics for Development. Some actions are undertaken in conjunction with other entities, such as the ITU and UNDP, where their remit overlaps. One example is the May 1995 study published jointly with the ITU, *The Right to Communicate: At What Price?* (UNESCO, 1995), which considered the economic constraints on the effective use of telecommunication in education, science and culture.

The Community Multimedia Centre (CMC) programme is among the CI flagships. Up to 90 centres have now been supported in Africa, Latin America and the Caribbean and South Asia, as the programme continues to expand elsewhere. Each centre provides rural and remote communities with radio, internet and other ICT facilities for knowledge sharing and development.

Other recent UNESCO intergovernmental actions are of at least tangential relevance. In October 2003, the General Conference approved the Recommendation concerning the Promotion and Use of Multilingualism and Universal Access to Cyberspace,[6] covering issues such as universal access to the internet, copyright and the public domain, and the balance between the interests of rights-holders and of the public. A recommendation, however, is not binding, and the language used is relatively weak.

The Convention on the Protection and Promotion of the Diversity of Cultural Expressions was approved by the General Conference in October 2005. It was in part promoted as a means to ensure that cultural expressions, including audio and visual materials, could be fully defended in the context of trade agreements, such as those agreed in the World Trade Organisation (WTO), which many believe are undermining their cultural value in the interests of trade and commercial gain. The Convention was opposed primarily by the US.

UNESCO and the WSIS

The legal basis for UNESCO participation in the World Summit on the Information Society (WSIS) was never in doubt, given the strong remit in its Constitution and the existence of an Information Society Division in the CI Sector.

It is worth recalling that some time before the ITU announced in 1998 its intention to organise the WSIS, UNESCO had been developing its own plans for a summit. In August 1996, instigated by the director-general, the UNESCO Executive Board began planning a Conference on Information and Communication for Development, to be

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5   The Non-Aligned Movement (NAM) is an international organisation of states – over 100 – not formally aligned with or against any power bloc.

6   Available from: <portal.unesco.org/ci/en/ev.php-URL_ID=13475&URL_DO=DO_TOPIC&URL_SECTION=201.html>.

held in 1998, the goal of which was to "focus on development issues to which information and communication can make a meaningful contribution and (…) provide a forum for all who wish to contribute to the search for international consensus in these matters" (UNESCO, 1996a).

In November the Executive Board agreed that "The possibility of co-organising the conference jointly with other bodies within the UN system, such as ITU, would be actively explored" (UNESCO, 1996b).

Why UNESCO dropped the idea of the conference has never been publicly explained, although some within UNESCO view it as the origin of the idea of an intergovernmental event on the information society. The internal consideration by UNESCO of such a conference enabled a rapid and coherent response to the ITU initiative, and UNESCO was thus a very early and active contributor to the WSIS preparatory process.

From the beginning, UNESCO's goal was to broaden the agenda of the WSIS, and to extend civil society participation. Although not officially acknowledged, some in UNESCO shared the view of early civil society participants that the ITU's understanding of the information society overemphasised infrastructure and technical aspects. Furthermore, the ITU's unique structure, which encourages active participation from the private sector but refuses (in contravention of ECOSOC agreements) to officially recognise NGOs, left it ill equipped to negotiate the participation of civil society.[7]

The early stages of a summit routinely involve a process of agenda-definition as the lead agency, in this case the ITU, brings in and opens a dialogue with additional UN actors. UNESCO's efforts in this regard focused on delivering a consistent message in all its activities under the theme "Towards Knowledge Societies" and four underlying principles: freedom of expression, universal access to information and knowledge, promotion of cultural diversity, and equal access to quality education. In general the intention was to concentrate on content and human-capacity issues associated with an information society, and this was evident in almost all its actions. Furthermore, UNESCO, unlike for instance the UNDP, took the opportunity of the WSIS to reinforce its ICT programmes.

In relation to supporting civil society, UNESCO participated actively in the first civil society event relating to the WSIS, held in November 2001 in Geneva, jointly organised by the Platform for Communication Rights and Friedrich Ebert Stiftung. UNESCO'S participation in this seminar – entitled "Communication as a Human Right in the Information Society: Issues for the World Summit on the Information Society" – signalled its support for a broad and participatory approach to the Summit.

Soon after, UNESCO organised a round of consultations with NGOs on the WSIS. The consultations were held in Paris over four separate days in February 2002. Although the lack of funding for travel and subsistence resulted in little participation from the South, the event facilitated the process of civil society coalescing around the WSIS. This was followed up in April with a two-day consultation, this time offering some support for Southern participation in an event that of-

fered a platform for civil society to further develop their ideas. The outcomes, in terms of both proposed modalities of civil society participation in the WSIS and the substantive issues to be included, had a significant influence on civil society activities overall during the early WSIS phase and formed the point of departure for discussions at the first meeting of the Preparatory Committee (PrepCom) in July that year. UNESCO went on to support an online discussion forum for civil society from December 2002 until January 2003, although participation in this case was relatively limited. By then, in any case, civil society was well into the process of organising itself into various caucuses and others groups, and was developing its own communication structures.

More generally, UNESCO took considerable pains to redirect and refocus its programme activities to fit into the WSIS and its "Knowledge Societies" agenda, especially through the design and refinement of the CI component of the 2002-2007 Medium-Term Strategy.[8] Some required little more than relabelling of existing activities; others were entirely new.

In the first WSIS preparatory phase, UNESCO published a series of reports on different aspects of the information society; hosted a Ministerial Round Table Meeting alongside its October 2003 General Conference from which a communiqué, *Towards Knowledge Societies,* was issued; organised a High-Level Symposium on the eve of the Geneva Summit meeting in December 2003 that brought together 40 ministers, most from the South; and sponsored seven side-events at the Geneva Summit itself.[9]

During the second phase, significant UNESCO activities included a series of thematic meetings in 2005, including two in Paris, one in Mali and one in Russia; the publication of *Towards Knowledge Societies: UNESCO World Report*, also in 2005 (UNESCO, 2005); and a further set of events at the Tunis Summit.

Description and analysis of ICT activities

UNESCO actions since the Tunis Summit

UNESCO's new Medium-Term Strategy for the years 2007 to 2013 is currently in advanced draft form, to be approved at the next General Conference. Programme V on Information and Communication has, according to senior staff, been structured to a very significant degree around those areas of the WSIS Action Plan for which UNESCO is the focal point.

Action lines

Under the Tunis Agenda and the subsequent consultation on Action Plan moderators/ facilitators held on 24 February 2006, UNESCO was assigned the role of interim focal point for four of the eleven full action lines contained in the WSIS Plan of Action, along with two of the eight ICT application areas grouped under action line C7. No other agency was given such a numerically prominent role in relation to the

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7   For documentation on an attempt to force ITU to open up to NGOs see: <www.comunica.org/itu_ngo>.

8   For a complete list see: <www.unesco.org/wsisdirectory>.

9   More information is available from: <portal.unesco.org/ci/en/ev.php-URL_ID=13013&URL_DO=DO_TOPIC&URL_SECTION=201.html>.

action lines, underscoring again the extent to which the WSIS agenda overlapped with that of UNESCO. These action lines are:

C3: Access to information and knowledge

C7: ICT applications (two areas: e-learning and e-science)

C8: Cultural diversity and identity, linguistic diversity and local content

C9: Media

C10: Ethical dimensions of the information society

Initial meetings were held during 2006 in all of these areas, beginning with C8 on 12 May in Geneva; then C3, C10, C7 (e-learning) and C9 in Paris on four consecutive days beginning on 16 October; and finally C7 (e-science) on 22 October in Beijing, alongside a major science and technology conference taking place there.

The purpose of the meetings was to constitute multi-stakeholder teams to move forward with each of the action lines, including designating a facilitator and sub-group moderators, devising terms of reference, and deciding on the activities to be pursued. No specific resources were available from UNESCO or other parties to facilitate the working of the team, and the facilitator is explicitly expected to be able to provide sufficient resources to cover the costs of his/her own activities. In all cases, UNESCO was confirmed by acclamation in its role as focal point for the specified action lines.

The WSIS action lines vary greatly in terms of their breadth of scope and the precision of their focus. They also differ in the extent to which the elements of the Action Plan are already underway and contained in the plans of UNESCO and other organisations. These factors were reflected in the meetings, as they will be in any eventual outcomes.

C3: Access to knowledge, for instance, is a key area with ten distinct actions, most of which are quite precise and well within the domain of UNESCO and other collaborating entities. Actions include: a) Develop policy guidelines for the development and promotion of public domain information and h) Support the creation and development of a digital public library and archive services.

C9: Media, on the other hand, includes seven actions, most of which are quite vague and/or general, such as a) Encourage the media to continue to play an important role in the information society and c) Take appropriate measures – consistent with freedom of expression – to combat illegal and harmful content in media content. Similarly, *C10: Ethical dimensions* has four actions including a) Take steps to promote respect for peace and to uphold the fundamental values of freedom, equality, solidarity, tolerance, shared responsibility, and respect for nature and b) All stakeholders should increase their awareness of the ethical dimension of their use of ICTs. And *C8: Cultural diversity* has a total of fifteen disparate actions covering hugely different areas and qualitatively different in nature.

Indeed, most of the actions within each area are disconnected, and often the implicit comprehension of the domains covered does not reflect actual good practice on the ground.

Thus UNESCO and the multi-stakeholder teams face a significant challenge in developing coherent sub-groups and focused ac-

tions. Meetings took different approaches. Some action lines broke into sub-groups to develop more specific activities; others stayed in plenary. Plenary discussion often opened out into general issues, and lists of desirable actions, before being pulled in by the chair. For the most part, they were conducted in a traditional and formal manner with tight chairing and facilitation and considerable discretionary power in the hands of the chair to continue or discontinue a subject and to wrap up with a specific conclusion.

Each of the action lines did establish multi-stakeholder teams to carry them forward, some with quite specific goals, though few if any at this point comprise all key actors necessary to push forward their domain of work. Civil society participation overall was relatively weak as compared to the level seen during the WSIS itself, and the number of participants from the South was limited, though they were vocal in most meetings. The absence of specific funding to defray the cost of participation may have contributed to the low numbers overall, especially of civil society and Southern representatives, but with a few exceptions the level of enthusiasm was muted and it proved difficult to establish an energetic consensus on moving forward.

UNESCO is organising an online platform for ongoing discussion, and collaboration is also being organised to facilitate further team development.

Prospects for implementation

UNESCO, in common with all participating organisations, faces a difficult task in implementing these action lines. Some obstacles, such as lack of precision and a very general focus, may be overcome through concerted effort on the part of the multi-stakeholder teams. Others, however, pose more serious challenges.

Almost all action areas are already the subject of considerable activity, unrelated to the WSIS, among academics, NGOs, the private sector, intergovernmental bodies, national bodies and so forth, many of whom would be almost entirely unaware of the WSIS. Given the lack of new resources, the multi-stakeholder teams are not in a position to influence their respective domains through the launch of major new actions. And there already exist several bodies through which actors cooperate and form partnerships, coordinate their activities, exchange experiences, and so forth, such as the Global Knowledge Partnership (GKP), the Global Alliance for ICT and Development (GAID), and indeed the intergovernmental agencies themselves. How can relatively small numbers of somewhat disparate multi-stakeholder teams hope to bring some value-added to this field? What can they offer that will make a difference?

The immediate outcomes of these meetings suggest that such an impact may be possible, but only in relatively few and quite specific areas, in which key organisations and entities already have a considerable stake, in which niche needs are not currently being addressed, and in which genuine collaborations can be nurtured with clear goals and outcomes.

Such actions might be found under action lines 3, 7 and 8, and probably less so under action lines 9 and 10. However, any positive outcomes will depend largely on how actively and creatively the

multi-stakeholder teams approach the task, and the resources they can mobilise.

The potential scale of outcomes, at least in these action lines, emerging from a global process of several years' duration that consumed an enormous amount of time and funds, seems modest in the extreme. Some in UNESCO believe that much of the WSIS' impact may be generated by less explicit and visible means, through the extensive networking that took place and will be reinforced on the ground, regionally, nationally and even locally. However, it is difficult to produce evidence of this, especially given that there are already so many other networking activities. Evidence is also scarce, at a higher level, of a development impact of the WSIS through integration into the wider development context, since the participation of core development actors – such as the relevant government ministries, key donor organisations and NGOs – in the overall WSIS preparatory process, Summits and follow-up was, and remains, limited.

Other activities relating to the WSIS

UNESCO is a member of the UN Group on the Information Society (UNGIS) established by the UN secretary-general. It is set up as a mechanism to coordinate interagency implementation and to link the WSIS to other development modalities such as the Millennium Development Goals. Its first meeting was held in Geneva on 14 July 2006, chaired by the ITU secretary-general. UNESCO is one of three vice-chairs, and will take the chair from July 2007, followed by the UNDP.[10]

UNESCO also participates in the work of the Internet Governance Forum, advocating an open, transparent and inclusive approach to the issue. Specific topics of interest include ethical dimensions, multilingualism on the internet and capacity building.

Finally, UNESCO continues with its work with the Partnership for the Measuring of ICT for Development, focusing on indicators relating to its core concerns.

Other ICT-related activities

UNESCO has attempted, in the latter years of its 2001-2007 Medium-Term Strategy and in the entirety of its forthcoming Strategy, to bring its ICT-related activities within the general outcomes of the WSIS. However, several major programmes began before the first Summit, and are continuing thereafter. Recent developments in the most important of these are considered here.

Both the Information for All Programme (IFAP) and the International Programme for the Development of Communication (IPDC) have recently been through evaluation processes. The former is not yet completed but the outcome may bring it closer to the WSIS implementation activities.

IFAP at present faces a number of challenges, among them that it has very limited ongoing funding, its focus is not altogether clear, and there are questions concerning the strategic value of funding modest and relatively isolated projects. The evaluation, to be completed in early

2007, considers whether the focus should be placed more firmly on policy-related actions, marking a clear distinction from IPDC's strong project focus.

The structure of IFAP as a UN commission offers some possibilities, since it has a mandate to form national committees. The IFAP Bureau secretary also holds the post of Information Society director within CI; and the IFAP Council advises UNESCO on information society issues. Thus one option under consideration is to reposition IFAP as the coordinating vehicle for implementing UNESCO's role in the WSIS. The national committees could play a key role in convening national actors and multi-stakeholder teams under the action lines, while at the institutional level, the Bureau could play a horizontal coordinating role while bringing together government and international non-governmental actors.

Indeed, its mandate lends itself so well to a coordinating role in the information society that some see the failure to propose IFAP as the follow-up mechanism for WSIS, a role that was given to the Commission on Science and Technology for Development, as an opportunity lost.

In the case of IPDC, reforms initiated in 2002 included a higher priority for projects promoting press freedom and media pluralism, community media, professional capacity and partnerships; the IPDC Council will now meet bi-annually instead of annually; the Bureau fully takes over selecting and financing projects; and field office advisers will assume greater responsibilities. The evaluators (Ronning and Orgeret, 2006, p. 8) concluded that "significant and impressive changes have taken place within IPDC since the [earlier] 2002 evaluation."

The Community Multimedia Centre (CMC) programme, a major programme of UNESCO's Communication and Information Sector (CI), has also recently been evaluated. Launched five years ago, it is moving towards a second phase with a scale-up in some countries, and mainstreamed support. Generally, the evaluation is positive: "The CMCs are accepted by and fully integrated into the communities and can in many cases be sustained beyond the pilot phase without core operating grants... Longer term benefits are already being realised within individual communities, such as the gradual removal of barriers to social inclusion, the stimulation of poverty alleviation through access to knowledge of better health, resource management and agriculture practices, through the establishment of listeners clubs as self help groups... and the creation of new livelihoods opportunities" (UNESCO, 2006b).

Shortcomings were identified, among them: Strong and consistent field support from UNESCO regional offices for the initiative, with one exception, is missing; efforts to achieve financial sustainability may be forcing CMC managers to target services at those who can pay, limiting access for the poor; there is a heavy reliance on volunteers; and the strategic timeframe for the initiative is unclear, as are benchmarks to assess the value of the initiative to UNESCO itself.

Perhaps relating to this last, some within UNESCO appear to question whether it is appropriate to be involved in scale-up (a footnote in the evaluation report notes that the sector denies this), and there is some confusion as to long-term objectives for the CMCs. This latter is interesting, and possibly arises from the unique nature

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10 For more information see: <www.itu.int/council/wsis/wsis_WG.html> and <www.ungis.org>.

of this programme and the considerable resources that it consumes. The report recommends the devolution of scale-up to the regional offices, and more support there, and that the head office should provide tools, training, exchanges and a global focus, and accelerate efforts with member states to create an enabling policy environment.

Finally, it is worth mentioning that UNESCO still faces a considerable task in coming years to persuade many more member states, against opposition from the US, to ratify the Convention on Cultural Diversity. In December 2006 a total of 35 had ratified it, lifting the number above the minimum requirement of 30, thus making it enter into force in March 2007. The international campaign led by a group of member countries and NGOs to obtain additional ratifications is continuing, however, since the legitimacy and applicability of the Convention will be proportional to the number of states that ratify, accept, approve or adhere to it.

Stakeholder participation

At the institutional level, UNESCO has a strong commitment to gender equality, in particular through the Section for Women and Gender Equality and the actions to support mainstreaming across all UNESCO programmes. Similarly, there is significant institutional support for civil society participation within UNESCO, among the strongest and most elaborate of the UN agencies, and it is legally underpinned by its Constitution. Yet participation in these formal structures by Southern NGOs and civil society organisations appears to be weak, accounting for around 15% of the total. The actual level of Southern influence will to some extent depend on whether the international associations and NGOs, mostly based in OECD countries, have strong Southern membership and reflect their concerns through their UNESCO interactions. No information is available on this matter.

Support for wider developing country participation in UNESCO derives not from any specific legal or institutional form, but rather permeates throughout the organisation's strategy and programmes. Ultimately, Southern participation is safeguarded by its democratic membership and voting structures.

In the WSIS, UNESCO attempted, with some success, to open its activities to and support the efforts of civil society participation beyond its own NGO associates. UNESCO offered some limited direct support for participation to civil society from the South (though in the absence of figures it is not possible to assess whether this increased the proportion of Southern participants beyond the 15% in formal UNESCO NGO structures). While it was useful and did make a difference, UNESCO itself would agree that it was insufficient to redress the balance. UNESCO also ran several of its WSIS events in the South, including global events, in an effort to raise participation there and to ensure a greater focus on these issues.

Overall, UNESCO was amongst the strongest supporters of civil society in the WSIS process. Especially during the early stages, UNESCO invested significantly in events and processes designed to build civil society capacity, establish linkages and support effective intervention within the WSIS. Later they followed through by ensuring that their events were open to all stakeholders. They went to some

trouble to ensure that civil society organisations beyond NGOs accredited to UNESCO were informed, welcomed and could participate.

In the WSIS follow-up, in accordance with paragraphs 108 to 109 of the Tunis Agenda, all meetings were open to all stakeholders, and registration was provided online. There are, however, those who believe UNESCO has begun the follow-up process with a somewhat *dirigiste* tone, including several complaints from civil society participants that key decisions at the initial multi-stakeholder meetings, such as the division into sub-themes, were announced at the start of the meeting and only subsequently discussed.

Unfortunately, UNESCO does not compile systematic data on the gender and national breakdown of participants in the various events and other activities, or whether they belong to civil society organisations. A quantitative analysis of these issues was thus not possible.

Conclusions and recommendations

UNESCO is by Constitution and orientation well-disposed towards communication and information issues, taking a broader view than some others who have espoused the idea of an information society. Since its experience of the 1980s with the NWICO it has adopted a pragmatic, sometimes restrictive, view of the breadth of its remit in relation to the free flow of information, generally steering clear of antagonising Western and corporate interests. This is a pity since many of the key concerns in that debate, such as concentration of media ownership into a handful of Northern corporations, are of even greater concern now than they were then. UNESCO remains the most appropriate UN forum in which to debate the implications of this and other trends. Nevertheless, UNESCO can be responsive to its majority membership of Southern governments, and in certain core areas such as cultural diversity, it pursues a relatively strong line.

UNESCO's key legal instruments – declarations, conventions and recommendations – rely strongly on their moral authority, having limited legal efficacy, but can be effective in bringing together protagonists and antagonists and developing areas of mutual understanding.

UNESCO came well prepared for the WSIS, having flirted a few years earlier with the idea of its own intergovernmental event on information and communication for development. It engaged very early on with the ITU and the WSIS process, enhancing the participation of civil society, including to some extent those from the South, in the overall process.

Its decision to focus on the theme "Towards Knowledge Societies" contributed to a broadening of the debate within the overall WSIS process, which significantly enriched opportunities for interaction among those involved on these issues, issues that would otherwise have been marginalised.

Nevertheless, for a number of reasons, UNESCO's impact on the eventual WSIS outcome in substantive terms was limited, due largely to limitations within the overall WSIS process itself. Some issues that it promoted, such as universal access to information and quality education, gained a relatively high profile, though less so in the case of cultural diversity and certainly freedom of expression. Yet relatively narrow government participation, confined mainly to technical and

infrastructure ministries, in combination with other factors finally meant that even those issues with a high profile made little substantive progress.

UNESCO has continued its commitment by taking responsibility for a major role in the WSIS follow-up process. Yet for the reasons mentioned above, significant outcomes are likely, at most, only in some carefully targeted areas. The multi-stakeholder teams have a hill to climb in terms of establishing their credibility with existing actors in their respective areas, and in identifying those areas in which an impact is possible.

Having said this, the likelihood of success in narrow but significant areas is reinforced by the successful progress of internal strategic reorientation achieved by UNESCO as a result of the WSIS process. ∎

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United Nations Development Programme (UNDP)

Seán Ó Siochrú

Introduction

Objectives and main activities

The UNDP[1] describes itself as "the UN's global development network, an organisation advocating for change and connecting countries to knowledge, experience and resources to help people build a better life." With a staff of almost 5,000, it has national offices in 166 countries.

The UNDP has dual role at the national level. On the one hand, within the context of its mandate, it provides expert advice, training, and grant support to developing countries to help achieve a range of national and international goals, such as most notably the Millennium Development Goals (MDGs).[2] In this context, it is often regarded as the largest single source of development funding and government technical assistance within the UN system. On the other hand, it supports the coordination of UN activities at the national level through the Resident Coordinator system, which it manages, working closely with the government, agencies and other development partners.

The UNDP's specific *focus areas* (also referred to as *practices* or *key results* in various documents) are worked out in line with changing conditions and demands for programme support from countries. They are then presented to the UNDP Executive Board for endorsement in the context of three-year programme frameworks. First established in 1999, the framework has since been referred to as the Multi-Year Funding Framework (MYFF). In the context of the current MYFF (2004-2007) the following are core goals:[3]

- Achieving the MDGs and reducing human poverty
- Fostering democratic governance
- Managing energy and environment for sustainable development
- Supporting crisis prevention and recovery
- Responding to HIV/AIDS.

How it can best respond to these focus areas may be refined in the context of its new programme framework for 2008 to 2011, currently under development. In any case, within the context of the priority areas, the UNDP supports projects and programmes at all levels (global, regional and national), in collaboration with numerous partners, providing advice, building capacity, and co-funding or funding innovative activities. Its annual Human Development Report is widely used and considered authoritative.

WEBSITE: www.undp.org	
HEADQUARTERS: New York, United States of America	
FOUNDED: 1965	
UN STATUS: UN programme reporting to the UN General Assembly	

Legal/constitutional composition

The UNDP was established in 1965 by the United Nations General Assembly, and became operational in January 1966. In resolution 2029 (XX) of 22 November 1965, the General Assembly decided "to combine the Expanded Programme of Technical Assistance and the Special Fund in a programme to be known as the United Nations Development Programme" (UN General Assembly, 1965). Through decision 94/14, the Executive Board of the UNDP decided that "the overall mission of UNDP should be to assist programme countries in their endeavour to realise sustainable human development, in line with their national development programmes and priorities…" In this context, through decision 95/22, the Board urged the UNDP to concentrate on areas where it had a demonstrable comparative advantage – in particular, on capacity-building in the most needy regions and countries, such as the least-developed countries and Africa – to help them develop national capacity to achieve sustainable human development, and giving overriding priority to eradicating poverty and building equity.

Key members/participants and decision-making structures

The UNDP Executive Board, reporting to the UN General Assembly, comprises representatives from 36 countries around the world serving on a rotating basis. Through its Bureau, which is elected from the Executive Board and rotates annually among the five regional groups, the Board oversees and supports the activities of the UNDP.[4] The Executive Board is led by an administrator appointed by the Board, currently Mr. Kemal Dervis.

Relations with other international institutions and the multilateral system

The UNDP's formal relations with and participation in the multilateral system are defined through the UN General Assembly. The UNDP cooperates extensively with other international institutions at the national, regional and international levels.

At the country level, through the Resident Coordinator system, it also serves to facilitate UN coordination.[5]

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1   <www.undp.org>.

2   <www.un.org/millenniumgoals>.

3   To date these have also been the basis for the organisation of areas of work referred to as practices. In turn each practice contains service lines, which are sub-areas of work. Thirty distinct service lines were defined for the 2004-2007 MYFF, two of them focusing on ICT for development: Making ICT Work for the Poor (SL 1.8) and E-governance and Access to Information (SL 2.5). Country offices refer to the practices and service lines to frame programmes and to report on results. In the context of its new programming framework, currently under development and referred to as its Strategic Plan (2008-2011), the focus will be on key results and outcomes rather than service lines.

4   See: <www.undp.org/execbrd/>.

5   For recent recommendations on strengthening this role to be considered by the General Assembly, see *Delivering as One*, the report of the Secretary-General's High-Level Panel on UN System-Wide Coherence in the Areas of Development, Humanitarian Assistance, and the Environment. Available from: <www.un.org/events/panel/resources/pdfs/HLP-SWC-FinalReport.pdf>.

Commitment to development

The UNDP is dedicated to development. As noted above, UNDP Executive Board decision 94/14 established that the overall mission of the agency should be that of assisting countries in their efforts to achieve sustainable human development. Other vital objectives for the UNDP include the advancement of women, the regeneration of the environment and the creation of sustainable livelihoods. Its mission statement, which outlines these objectives further, was endorsed by the UNDP Executive Board through decision 96/29.[6]

Commitment to gender equality

Gender equality is a crosscutting theme in the UNDP, following a three-pronged approach that aims to:

- Develop capacity, both in-country and in-house, to integrate gender concerns across UNDP practice areas
- Provide policy advice that is both pro-poor and pro-women
- Support stand-alone operational interventions for gender equality in collaboration with the United Nations Development Fund for Women (UNIFEM).

In the UNDP headquarters a Gender Programme Team is charged with mainstreaming gender across UNDP areas. A Gender Thematic Trust Fund (GTTF) was set up to support programme countries in their efforts to mainstream gender throughout all of their programme work. It is intended to enable institutional and cultural transformation processes, including:

- Eliminating gender biases in development frameworks and paradigms
- Incorporating gender awareness into policies, programmes and institutional reforms
- Involving men to end gender inequality
- Developing gender-sensitive tools to monitor progress and ensure accountability.

The UNDP has also established a gender knowledge network which currently has about 440 members. Its overall approach and activities are summed up in the UNDP Practice Note on Gender Equality of 2002.

UNIFEM is an administered fund of the UNDP. Set up in 1976 by the UN General Assembly, following the UN First World Conference on Women in 1975, it has fifteen regional offices around the world. According to its website it "provides financial and technical assistance to innovative programmes and strategies to foster women's empowerment and gender equality." UNIFEM's efforts are centred on the advancement of women's human rights, and it focuses its activities on four strategic areas: (1) reducing feminised poverty, (2) ending violence against women, (3) reversing the spread of HIV/AIDS among women and girls, and (4) achieving gender equality in democratic governance in times of peace as well as war.[7]

In addition, the UNDP is strongly committed to enhancing gender balance in the implementation of its human resource policies (UNDP, 2005).

Southern actors and civil society participation

The UNDP's relation to civil society encompasses various dimensions and is operative at the global, national and sub-national levels. It also maintains a CSO (Civil Society Organisation) Division, part of the Bureau for Resources and Strategic Partnerships, responsible for strengthening UNDP policy and methods for CSO collaboration at every level, including advising and supporting the UNDP country offices. According to its website:

> UNDP, as the UN global development network, engages with civil society organisations (CSOs) at all levels to promote the Millennium Development Goals (MDGs) and support people in their efforts to build a better life. Substantive partnership with CSOs is of greater strategic importance than ever given the integral role of civil society actors in development. There is growing recognition that engagement with CSOs is critical to national ownership, accountability, good governance, decentralisation, democratisation of development cooperation, and the quality and relevance of official development programmes.[8]

A CSO Advisory Committee comprising fourteen CSO leaders offers an opportunity for debate, feedback and cooperation, including structured dialogues between the Committee and the Executive Board. CSOs can access certain UNDP funding mechanisms, including the Thematic Trust Funds, the Partnership Facility, and a Small Grants Programme. They can also participate in a number of UNDP special programmes such as Capacity 2015 (a follow-up to Capacity 21) and the Africa 2000 Plus Network.

In practice, the UNDP at the national level strongly encourages governments – including reluctant governments – to build broad-based national ownership and to include the participation of civil society in its programmes. It promotes multi-stakeholder dialogue on key policy and development objectives such as the MDGs, an approach also evident in global and regional level programmes.

Regarding Southern actors, the UNDP's regionalised management structure and rotation ensure ongoing participation of Southern countries at the global level. Almost all country offices are located in Southern countries, and the great majority of funding is spent there. Although the UNDP headquarters is in New York, 85% of UNDP staff work in Southern countries.

Further, in 1974, UN General Assembly resolution 3251 (XXIX) created a Special Unit for Technical Cooperation among Developing Countries (SU/TCDC) within the UNDP (UN General Assembly, 1974).

6　The UNDP's mission statement includes numerous and significant references to development. See: <72.14.209.104/ search?q=cache:32Xzh_3FVdUJ:www.undp.org/execbrd/pdf/ 9628205e.pdf+decision+96/29+the+Executive+Board+of+The+UNDP/ UNFPA&hl=en&gl=us&ct=clnk&cd=3>.

7　<www.unifem.org/about>.

8　See: <www.undp.org/partners/cso>.

The focus of current activities is on "regional and interregional initiatives aimed at engaging a large number of countries to work together to formulate policies, share information, agree on priorities and translate ideas into programmes." The strategic aim of the Special Unit is "to make developing countries effective partners with all other actors in achieving the Millennium Development Goals and targets set by the G-77 Havana Programme of Action, such as halving the incidence of extreme poverty by 2015."[9]

Role and responsibilities in ICTs

The UNDP's foundation in 1965 does not refer specifically to a remit in the area of information and communication technology (ICT). However, given its broad development focus, and the role that ICT can play in enhancing development processes and outcomes, activity was inevitably going to emerge in this area. Paragraph 70 of the second Multi-Year Funding Framework, covering the years 2004 to 2007, specifically states: "Appropriate technology is an essential ingredient in positioning UNDP as a truly knowledge-driven organisation. To this end, the ICT strategy will focus on establishing an adequate platform to facilitate the use of online collaborative tools, content and document management, and the sharing of experiences and best practices" (UNDP/UNFPA, 2003).

The UNDP's organisational approach to supporting ICT for development (ICTD) has evolved over time. A number of ICTD programmes at the global, national and regional levels date back to the early 1990s.

Early ICT Activities

The Sustainable Development Networking Programme (SDNP), launched from the 1992 Rio Summit as a support measure for Agenda 21, was the first major global effort, although even before that, early forays into ICTs included the Alternex project, developed with UNDP support by IBASE in the late 1980s and Brazil's first and only independent internet service provider (ISP) until 1994.

The SDNP could be viewed as the first systematic *global* ICTD programme backed by a coherent rationale, and for some time was a strong advocate of what later became known as ICTD within the UNDP. The SDNP aimed to facilitate access to information for development stakeholders and to encourage greater participation by all development actors. Run by a small team from UNDP headquarters but with the support of country offices, it collaborated with a range of actors to create SDNP programmes in 44 countries. Its core funding was about USD 9 million, disbursed between 1992 and 2002, but it leveraged considerably more for national SDNP activities, certainly over twice that figure. While not all programmes were successful, many helped to influence ICTD policies through the SDNP's multi-stakeholder steering committees and through the capacity that it helped to strengthen in what was then an emerging area. Further, quite a few national SDNPs became their country's first ISPs, even achieving market dominance for some years, and many continue successfully

today. Networking local communities and stakeholders and facilitating internet access were usually a priority, with most resources devoted to knowledge generation and distribution, capacity building, training and the provision of a range of ICT-based services. Overall, the programmes were pioneering in terms of applying ICTs to issues of development and sustainability, and significantly influenced subsequent UNDP regional activities such as the Internet Initiative for Africa (IIA) and the Asia Pacific Development Internet Programme (APDIP).

During the 1990s, the UNDP began to support individual projects and initiatives based on ICTs or with a significant ICT component at the country level, building up a considerable portfolio over the years. In addition to dedicated ICTD programme/project managers/focal points for some of the larger country programmes, the UNDP country offices were also assisted by ICTD policy advisors based in the UNDP's Sub-Regional Resource Facilities (SURFs) or Regional Service Centres where its regional programmes are housed and/or by policy advisors at the global level (housed in the Poverty Reduction and Democratic Governance groups in the Bureau for Development Policy). At present these key regional ICTD programmes comprise:

- ICT for Development in the Arab Region (ICTDAR)[10]

- Asia-Pacific Development Information Programme (APDIP)[11]

- ICTD component of a larger democratic governance programme for Europe and CIS[12]

- E-governance and support to ICT for the MDGs, Regional Service Centre in Dakar, Senegal.[13]

Between 2000 and 2003, the UNDP had a dedicated ICTD "special initiative" – essentially a new focus area or practice – within its Bureau for Development Policy (BDP) to support country offices in the development of national e-strategies and interventions and to identify emerging strategic areas for effective deployment of ICT for development.[14] BDP/ICTD staff was based in New York, with out-posted policy advisors in most regions (Latin America, Africa, Europe and CIS and the Arab States). This initiative is discussed in further detail below.

In late 2003, in the context of developing a new MYFF for 2004-2007 and with a view to ensuring a closer integration of ICTD with its main areas of work, the UNDP realigned its approach to focus particularly on the deployment of ICT for poverty reduction (Service Line 1.8: *Making ICT Work for the Poor*) and the promotion of democratic

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9 See: <tcdc.undp.org/faq.asp#SU/TCDC>.

10 www.sdnp.undp.org/it4dev/docs/yp/regional_ictdar.html

11 APDIP seeks to assist national and regional institutions in Asia-Pacific to improve access, knowledge-sharing, networking and management, and the application of ICTs for social and economic development. APDIP also helps to target and focus regional ICT initiatives to achieve relevant development goals by making ICT an integral part of development cooperation and solutions, so that developing countries and their partners in the Asia-Pacific region can work to address economic, social and digital divides in more innovative and effective ways. See: <www.apdip.net>.

12 <europeandcis.undp.org/?menu=p_practice&FocusAreaId=14>.

13 <www.undp.org/surf-wa/ICTPOVMDGs/index.htm>.

14 See: <sdnhq.undp.org/it4dev/docs/about_undp.html>.

governance (Service Line 2.5: *E-governance and Access to Information*) (UNDP/UNFPA, 2003). In the case of the MYFF or strategic plan for 2008-2011, there appears to be a shift away from specific service lines more generally towards key results and outcomes. In this context, ICTD will more likely be visible as a mechanism to achieve selected development outcomes.

Issues regarding the evolution of ICTD within the UNDP

The UNDP's experience in ICTD highlights some key challenges and opportunities facing international development organisations lacking an a priori focus on ICTD: i.e. whether to maintain a separate unit or to mainstream ICTD expertise and programming across its existing areas.

With the arrival in 1999 of a new UNDP administrator, Mark Malloch Brown, "moving upstream" became the motto, meaning that the UNDP would seek to focus more on providing assistance to develop strategy, policies and institutions at national level with a view to scaling up activities, and would focus less on direct support to individual programmes and projects. In relation to ICTD, this meant that support moved towards "helping to achieve a policy environment that encourages domestic and international provision of information technology and other services and away from the actual delivery of those services, which is what we are currently doing" (Brown, n.d., p. 7).

Project level activity continued, but "the greatest impact of UNDP on poverty eradication is upstream, at the level of policies and institutions, rather than in the stand-alone projects, which are often relatively expensive and reach only a limited number of beneficiaries." The implications of this approach were "a much greater emphasis on partnerships, and the adoption of a catalytic, brokering role" (Brown, n.d., p. 8).

In 2000, during the period of the first MYFF for 2000-2003, ICTD was supported, as mentioned above, by the launch of a dedicated ICTD initiative which in effect created a sixth global focus area (UNDP/UNFPA, 1999). In line with the other practices, in October 2001, a Thematic ICTD Trust Fund – an instrument to provide catalytic funding, support innovation, and attract donor money – was launched with an initial commitment of USD 5 million from the Government of Japan. This was later topped up with a further USD 2 million from the Government of Japan and contributions from other selected donors, most recently the Government of Spain.

At the time, the UNDP was not just moving ICTD up to policy level; it was promoting a new approach to policy. The UNDP argued the need to go beyond conceiving of ICTs as a specific *sectoral* issue, a position that had characterised the major global thrust during the 1990s to liberalise telecoms markets and open developing countries to foreign ownership. Now the UNDP was seeking to draw a clear distinction between ICT policy geared towards creating an advanced ICT sector and services, and an ICTD policy aiming to maximise the positive overall impact of ICTs on development.

This shift from ICT as sector to ICT as horizontal development enabler was strategically outlined in the Digital Opportunity Initiative (DOI), developed by the UNDP in collaboration with Accenture and the Markle Foundation. Launched in July 2001 with the publication of

the report *Creating a Development Dynamic*, it offered a coherent generic approach at country level to designing and implementing an ICT strategy aimed specifically at contributing to development and to social as well as economic goals. It underlined the need to involve the "full range of stakeholders in international development – governments, both industrialised and developing, the business and non-profit sectors, multilateral agencies, and community organisations on the ground" (DOI, 2001). Based on the analytical framework and lessons culled from research and specific case studies of national e-strategies, the report also explored the potential for offering catalytic support in selected countries such as South Africa, Romania, Mozambique and Bolivia through the initiative. In addition, the DOI framework also formed the corporate framework for the UNDP's own support to countries in developing their national strategies and programmes.

This belief in partnerships and in stakeholder participation was reflected in subsequent initiatives in which the UNDP is involved at the global level. The Digital Opportunity Task Force (DOT Force), whose secretariat is co-hosted by the World Bank and the UNDP, was created at the G8 meeting in July 2000 in Okinawa.[15] It was one of the first multi-stakeholder global ICT task forces, bringing together government, industry and civil society from G8 countries, and government representatives from selected developing countries, to design an action plan, delivered in June 2002, to expand the use of ICT and universalise its benefits.

The UN ICT Task Force was launched by the UN secretary-general in November 2001, with the UNDP playing a key role in its founding. With broad representation, it was a "cooperative effort to identify ways in which the digital revolution can benefit all the world's people" (UNDP, 2004a). This eventually evolved into the Global Alliance for ICT for Development (GAID).

Other international collaborations were undertaken with a more programmatic focus and modest UNDP input. With CISCO Systems and United Nations Volunteers, for example, a partnership was formed to set up training academies for internet skills in least-developed countries. The UNDP was also a partner in NetAid, and with a cash grant from the Coca Cola Foundation also supports e-learning activities in Malaysia (2000) and Bolivia (2002).

The UNDP has been an active member of the Global Knowledge Partnership (GKP), participating in its major events and networking activities, and has been involved in establishing partnership initiatives with civil society and the private sector at the regional and national levels as well. More recent regional public-private collaborations include the joint research initiative undertaken by UNDP-APDIP, the International Open Source Network (IOSN), IBM and Oracle to help Asia-Pacific countries share and create strategies, blueprints and policies for adopting the right blend of open standards and technology services.

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15 The G8 Summit in Okinawa agreed the Okinawa Charter on Global Information Society, in which the leaders agreed to establish the DOT Force. It was actually formed and first met in November 2000. Its key strategy document was *Digital Opportunities for All: Meeting the Challenge*, presented and approved at the G8 meeting in Genoa in July 2001. See: <www.dotforce.org>.

The designation of ICTD as a UNDP focus or practice area from 2000 until 2003 helped raise the profile of ICTD, and awareness of its development potential was strengthened at the national level. The years following 2000 saw a significant increase in UNDP projects supported at the national level. However, the timing of the stronger move into ICTD proved, in one respect, to be unfortunate: the "dotcom" bubble had just burst and the telecommunications crash was impending. These events strengthened a perception in some quarters that the development potential of ICT had been over-emphasised, which tended to weaken the potential of the ICTD practice area just as it had begun to assist a number of countries in laying the foundations for more development-oriented ICT policies. At the same time, they negatively affected the capacity to attract funding for ICTD programmes in a variety of institutions – including the UNDP Thematic ICTD Trust Fund – as both the private sector and governments decided to cut back on investment in the area.

As indicated earlier, in late 2003, in the context of the development of the new MYFF for 2004-2007, a decision was taken to mainstream ICTs back into the other focus areas, specifically poverty reduction and democratic governance. This in itself was not a bad thing – indeed it could be seen as a natural progression – since ICTD itself is a cross-cutting issue, and such mainstreaming allows a closer engagement with and integration within governance and poverty policies and programmes, two key areas in which ICT can have a significant development impact. In the short term, however, the shift had a negative impact and the number of UNDP country offices reporting ICTD activities fell significantly. Furthermore, it resulted in a reduction of the resources available to ICTD at the headquarters level.

WSIS-related activities

UNDP involvement in the first phase of the World Summit on the Information Society (WSIS)[16] was relatively modest coming as it did in the wake of organisational changes in ICTD practice at the global level. The goal of the UNDP's initial support was to enhance the focus on inclusiveness and strengthen the development focus in the Summit. It participated in informal planning meetings convened by the International Telecommunication Union (ITU), and organised roundtables, Institute@WSIS peer-to-peer training sessions, and publications. It offered fellowships for developing country participation, and some support to strengthen civil society participation and inputs to the Summit. It also provided support at the national level for multi-stakeholder processes and at regional meetings. At the Summit itself, the UNDP supported or co-organised a number of events around the MDGs, knowledge for development, the "digital divide", and national ICT strategy development.

However, its first major role came with the creation of a Task Force on Financing Mechanisms (TFFM). The Geneva Summit in December 2003 recommended the creation of the task force to the UN secretary-general, following disagreement on the issue of the setting up a Digital Solidarity Fund to finance the bridging of the "digital divide".

At the request of Secretary-General Kofi Annan, the TFFM was coordinated by the UNDP, in cooperation with the World Bank and OECD. It completed its work in December 2004 with the publication of a report entitled *Financing ICTD: A review of trends and an analysis of gaps and promising practices* (ITU, 2004).

Much was at stake for developing countries, which had always looked towards the WSIS as an opportunity to come up with ways to address the huge gaps in ICT availability and accessibility. The report itself was a disappointment to many, its analysis on the whole emphasising the role of market-driven private investment in ICT infrastructure with insufficient consideration of its limitations. Inadequacies in various existing financing mechanisms and gaps in financing were noted and revisions suggested, yet no new financing mechanisms were seen as being required or were suggested. The politically sensitive issue of the Digital Solidarity Fund, set up and supported by a number of Southern countries and local governments of developed countries, was not addressed, although its innovation in leveraging local-government-to-local-government and peer-to-peer support was noted. The rationale offered for its exclusion was based on a narrow interpretation of the TFFM remit – i.e. that only existing mechanisms were to be included – and was unsatisfactory to many (Ó Siochrú, 2005).

Having said this, the report is wide ranging, and in what might be described as a "minority report within the report", it provides broad support to many innovative ideas such as the "open access" approach to providing infrastructure, ICTs as a public good, and community-driven ICT enterprises. Some of these have been taken up in subsequent UNDP activities in the post-WSIS space, especially in collaboration with civil society actors and networks.

The TFFM was also criticised for the limited opportunities it gave for participation, in terms of both the composition of the task force and its modus operandi. Its selection process was conventional in an environment in which innovation was expected or at least hoped for. Members were selected without wide consultation, comprising two civil society organisations (a number of other non-governmental and Southern actors accepted but ultimately could not participate), four intergovernmental agencies (the UNDP, ITU, OECD and World Bank) and six governments.[17] The two civil society/multi-stakeholder organisations were selected for their strong networks and contributions made on the financing question. While there was outreach and engagement through online and actual consultations,[18] on the whole its deliberations were considered to be less than optimal.

The TFFM is sometimes compared unfavourably against the Working Group on Internet Governance (WGIG), which took up the other major issue to emerge from the Geneva Summit – internet governance – and has been credited with pioneering a broad multi-stakeholder process encompassing a broad interpretation of its remit. Such comparisons may be legitimate, but there were some mitigating factors. The timescale for the TFFM was far more taxing than

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16 <www.wsis-online.net>.

17 For the composition at the time of its launch see: <www.un.org/News/Press/docs/2004/pi1616.doc.htm>.

18 See: <www.itu.int/wsis/tffm>.

that of the WGIG. The instruction from the December 2003 Summit was to complete the report for December 2004 in time to permit review and discussion at the first meeting of the Preparatory Committee (PrepCom) from 17 to 25 February 2005, a relatively short time to form the task force, undertake the research and deliver the report, and seven months less than the time available to the WGIG.[19] Furthermore, the level of civil society organisation and understanding around internet governance was considerably higher than that around financing mechanisms, making it easier to integrate their participation.

In Phase 2 of the Summit, the UNDP again supported various events and activities in partnership with the Global Knowledge Partnership (GKP) and the UN Industrial Development Organisation (UNIDO) in the context of the Sharing the Future initiative and pavilion.[20] Support was also provided to civil society and developing country participants, in particular through the Sharing the Future initiative led by UNDP-Tunis and UNIDO.

Description and analysis of ICT activities

WSIS action line facilitation

Under the Tunis Agenda adopted in December 2005 and the subsequent consultation in February 2006, the UNDP was designated as the moderator for two key action lines from the WSIS Plan of Action, namely C4: Capacity building, and C6: Enabling environment. (The UNDP was also suggested for a secondary facilitating role in action line C7: E-government and in action line C11: International and regional cooperation, both facilitated by UNDESA, the UN Department of Economic and Social Affairs.) Although the UNDP had not actively sought such a prominent role, it is likely that its selection was favoured by some developing countries and actors given its development focus, its operational presence on the ground in each country, and its global networks. A concern at the UNDP was that, unlike UNESCO and the ITU, it lacked (since 2003) a dedicated ICT unit at the headquarters level capable of overseeing the global implementation of action lines. At the meeting confirming the action lines and moderators/facilitators in February 2006, the UNDP representative declared: "For our part, UNDP stands ready to assume the role of a facilitator, but we would like to propose that we focus on a cluster of activities for which we are best suited so that we can contribute effectively to furthering action on selected priority themes within those areas and not find ourselves spread too thin" (Sorgho-Moulinier, 2006).

The UNDP convened follow-up meetings of the two action-line groups for which it was responsible on 11 May 2006, each for half a day. They were among the first of the action-line group meetings, with an open agenda.[21] Attendance was reasonable at 45 to 60 people

given that these were the first of the action-line meetings to be held over a two-week "information society week" (9-19 May 2006) organised in Geneva. Civil society groups actively participated, as did representatives from the Geneva missions of other UN agencies (e.g. ILO, ITU, UNCTAD, UNESCO), although private sector participation was relatively low.

The question of what could be achieved through the action-line groups was an issue for both the facilitators and stakeholders. There were no new resources and no clear follow-up process to which these could contribute. Prior to the action-line meetings, feedback on how to use the space most effectively had been solicited through the WSIS-implementation website. The caution expressed by the UNDP in February was echoed in some of the inputs to the virtual consultation process and to the outcome of the meetings themselves. Given the lack of additional resources for facilitators to support follow-up activities, and the diffuseness of the action line mandates and their country-based networks, the UNDP's efforts are focused on exploring targeted opportunities, working with the most active participants in order to achieve the greatest impact.

Two possible strands of follow-up are under consideration:

Action line network and activities: Sustaining the action-line teams, and working on common projects virtually and in real time with partners, was identified as a possible way forward. While the ITU has created a web platform for this, to date this strand of networked activity has proved difficult to launch. The UNDP has expressed its willingness to undertake this as a partnership activity, building linkages where feasible with communities of practice established under the Global Alliance for ICT and Development (GAID) – for example, in capacity building, with a community on public and private entrepreneurship led by the Association for Progressive Communications (APC) and other partners – and with the development dimensions of Internet Governance Forum activities.[22]

Selected project ideas and work at the country level: The UNDP is proposing to identify selected themes from WSIS for mainstreaming into their existing work agenda in a partnership format, with active participation from action-line teams, rather than establishing a separate stand-alone WSIS activity. While these themes are being selected, the UNDP is supporting some innovative approaches and mechanisms identified in the TFFM report and in the first action-line meetings, in particular:

- The production of policy briefs on open access policy and capacity dimensions of local ICT access and community-driven network type approaches

- Support to advocacy at the national level by way of mainstreaming ICT into poverty reduction strategies.[23]

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19 For the timing of the preparatory process see: <www.itu.int/wsis/preparatory2/index.html>.

20 See: <www.globalknowledge.org/wsis2005/index.cfm?menuid=44&parentid=33> and for region specific foci see: <europeandcis.undp.org/?wspc=practice-14_h_19> and <www.apdip.net/news/apdipatwsis>.

21 For a complete list see: <www.itu.int/wsis/implementation/meetings.html>.

22 For UNDP-APDIP support to regional consultations and synthesising of key development-related concerns relating to internet governance through the Open Regional Dialogue on Internet Governance (ORDIG) initiative see: <igov.apdip.net>.

23 This is also in line with a priority area of focus for UNGIS, and through partnership activity with key agencies, it could be linked to UN reform at the national level.

The UNDP is currently supporting project work in these areas, targeted at specific countries and regions, working with civil society organisations and other partners in developing countries.

The next round of action-line group meetings, to be held during 2007, is in the process of being scheduled, and members can interact on the ITU Web Platform.[24] The UNDP recognises that sustaining the interest and enthusiasm of these action-line groups represents a challenge.

Separately, various parts of the UNDP have also been involved in supporting WSIS follow-up and stakeholder engagement. For example:

- Its East and Central Europe governance programmes, its Arab States programme (ICTDAR) and its Asia Pacific Development Information Programme (APDIP) all have had activities focusing on gender and ICT, often in partnership with other UN agencies and civil society/foundations. APDIP, for instance, recently published a collection of thirteen papers developed for a pre-WSIS seminar, in partnership with UNIFEM and IT for Change.[25]

- APDIP has also been involved in supporting regional consultations, advocacy and partnerships around internet governance and free and open source software (FOSS).

Other WSIS outcomes and activities

Impact of the WSIS within the UNDP

Given the absence of a separate ICT unit at UNDP headquarters, it comes as little surprise that the impact of the WSIS on the internal organisation and appreciation of ICTs in the UNDP, overall, is slight.

During much of the WSIS period, the position of ICTs within the organisational structure in the UNDP was in flux, and with the arrival of a new administrator in August 2005, UN reform processes, and the development of a new four-year programming framework, the structures and modus operandi of UNDP support has been affected.

However, the WSIS has enabled those dedicated to ICTs within the UNDP to identify priorities not previously on the agenda, as well as new partners in civil society and in developing countries, and to channel them into the internal process of mainstreaming the broader organisational change underway. Issues around financing mechanisms (e.g. assessing policy-supported finance for community-driven models for access and service delivery; deployment of ICT to enhance access to financing mechanisms to address gaps), exploring options on regional bandwidth development, and bottom-up approaches to network development have emerged as follow-up to the TFFM report, and are now a focus of selected UNDP activities. E-governance and support to participatory processes, into which ICT is a mainstreamed activity, are also being supported at the headquarters and regional levels. Current UNDP efforts to relate ICT policy to the MDGs may also be viewed as follow-up to both the Millennium Summit and WSIS processes.

UN Group on the Information Society

The UNDP is active in the UN Group on the Information Society (UNGIS),[26] established in February 2006 by the UN secretary-general to help mainstream WSIS outcomes into the relevant UN bodies and organisations. The UNDP will chair UNGIS during 2008, following the ITU in the first year and UNESCO in 2007. Other UNDP commitments in this regard are:

- To strengthen the integration of ICT in policy/programme instruments – such as the UN Development Assistance Framework (UNDAF) and poverty reduction strategies – and in country programmes, with a view to improving effectiveness and contributing to the MDGs.

- To commission work on how to support this integration process (e.g. the role of ICT in poverty reduction strategies) and how some of the challenges, such as the "paradigm gap" between development decision-makers and ICT sector policy-makers, can be addressed.

- To undertake high-level advocacy in the context of various global development forums on the role that ICT can play in catalysing economic investment, transparency and accountability, social inclusion and service delivery to more effectively deliver on the MDGs – an objective stressed throughout the WSIS texts.

However, little progress has been recorded in these areas.

Stakeholder participation

As discussed earlier, the UNDP has established various mechanisms and bodies at the institutional level to ensure due consideration to gender issues (the Gender Programme Team, the Gender Thematic Trust Fund, the gender knowledge network and UNIFEM); to Southern participation (its regionalised management structure and rotation, its network of country offices employing 85% of its staff, and its Special Unit for Technical Cooperation among Developing Countries); and to civil society participation (its CSO Division and CSO Advisory Committee, access to funding mechanisms, and national-level focus on multi-stakeholder partnerships). Although it is beyond the scope of this report to assess their ultimate effectiveness, few agencies can boast such a wide-ranging, multi-level set of approaches and depth of commitment.

In relation specifically to ICT, and since it does not comprise one of the UNDP's core areas of activity, the focus on participation comprises a set of operational activities facilitated ultimately by the overall framework above. Examples include the following:

- *Multi-stakeholder engagement in national ICT policy development.* While national e-strategies and policies are viewed as a priority in many countries, their participatory development and implementation are not. In a number of countries and regions, the UNDP supports multi-stakeholder engagement and contribution

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24 See sites for C4 and C6 indicated at <www.itu.int/wsis/implementation>.

25 See: <www.apdip.net/projects/gender>.

26 <www.ungis.org>.

to the development of national ICT policy. In a selected few, it is also exploring support to civil society/multi-stakeholder-led advocacy efforts to promote pro-poor development options.

- *Community-based actors in implementation*. Under-served area licenses and universal access funds do not typically allow community actors to access financing for implementation. Nor is there much support for civil society/non-governmental organisation (NGO) inclusion in implementation when it comes to strategies focusing on roll-out of initiatives to increase access and service delivery to under-served areas. With only a few exceptions, roll-out policy and financing typically exclude or make it difficult for local communities, CSOs and NGOs to be part of the solution. The UNDP is supporting action-oriented research and undertaking advocacy into such options and looking to partnerships and working with governments to potentially pilot such approaches.

- *Global governance of the internet and ensuring that there is a strong developing country and stakeholder voice*. Some of the consultative and research activity that UNDP-APDIP is involved in can be viewed as contributing to this outcome.

- *Gender mainstreaming in ICTs.* The UNDP's Regional Bureau for Europe and the CIS has published, in collaboration with UNIFEM, a report on *Bridging the Gender Digital Divide* as part of a larger ICTD mainstreaming project (UNDP, 2004b).

The UNDP's focus at the global level has been to bring regional and national consultation processes to bear in those arenas in which it is involved. Within the context of pro-poor ICT policy and implementation support, the goal is to involve civil society as key partners in research and to support a focused inclusion in policy processes as well as in implementation where possible.

Conclusions and recommendations

The UNDP is at a transitional moment in relation to ICT and how it is organisationally integrated within the agency. The mainstreaming of ICT within poverty eradication and democratic governance has distinct advantages and, in principle, can help situate the UNDP in a key position in relation to ICT for development in these critical areas. To be effective, mainstreaming takes time and dialogue, as well as strategic support to ensure that country offices and partners receive appropriate signals and support for the transition. In practice, ICT for development has yet to receive the kind of strategic level support and resources needed to realise the potential of mainstreaming, and this is a significant factor in relation to recent UNDP performance.

Coming from the WSIS, the UNDP agreed to facilitate two major action lines, was assigned a key role in the newly formed UNGIS, and committed itself to following up and mainstreaming ICT into national development strategies and policies.

Given the organisational mainstreaming of ICT and the paucity of resources available centrally to date, the third area is where the UNDP can probably have the greatest impact. In the context of ICT for poverty reduction and democratic governance, UNDP activities are framed less as a follow-up to WSIS per se – although its activities are supportive of many WSIS action items – than as directly realising a broader set of UN Summit goals, particularly the MDGs, and helping countries and local communities to identify ways in which ICT can be mainstreamed in response to national development imperatives and programme challenges. The focus is thus more on the country level with the global engagement linked to that, rather than on an autonomous global consensus-building activity.

The UNDP's global level approach to action line facilitation, of working with partners to develop some key products rather than building a broad network in the absence of resources to sustain such activity, should be seen in this light. But it might require few resources, in collaboration with the other partners, to improve the potential for coordination across action lines and the participation, for instance, of civil society actors who lack the resources to follow multiple processes. Improved coordination of the several online platforms, and clustering all action-line group meetings around a single period and venue – the idea of an "information society week" – are examples. This requires some commitment and coordination from the key agencies involved, including the ITU, UNESCO, the UNDP and UNDESA.

Looking beyond the WSIS, the relatively low level of broad-based participation by the larger development community in the context of ICT for development, globally but also at the national level, is a critical concern. Advocacy and mechanisms for dialogue are needed to build bridges and facilitate progressive enabling and foundational policy foci regarding such issues as rights, privacy, service delivery, access to information, and participation in democratic decision-making. This may open an opportunity for the UNDP and other actors to identify the post-WSIS spaces at the global, regional and national levels in which these issues can be raised and debated, and to develop appropriate means by which the action lines can fit into these, especially as multi-stakeholder mechanisms capable of incorporating civil society participation and perspectives.

Notwithstanding the limitations to date of ICT resources at the strategic headquarters level, the UNDP is well placed, even beyond the ITU, to take up leading strategic and operational roles in relation to encouraging ICTD integration within the larger development community, and in a manner that facilitates the widest participation. Its core commitment to development, its resident coordination role at national level, its unrivalled network of country offices, and its approach to encouraging broad participation all stand in its favour. Furthermore, the resource issue may soon be eased as a result of recent and significant member state commitments to the ICT Fund.

UNGIS offers a forum for this within the WSIS process. However, the UNDP could also play a part in bringing it to a higher level within the UN system, beyond the WSIS itself.

An opportunity might arise in the context of the report of the Secretary-General's High-Level Panel on UN System-Wide Coherence, which was delivered in November 2006 (UN, 2006). The report has yet to be debated by the UN General Assembly, but includes a call for enhanced coordination. Pilot countries have been

proposed to identify challenges and opportunities. As this process advances, UNGIS in the context of the UN Chief Executives Board and the UNDP, through the Resident Coordinator system at the national level, could take on the task of exploring how to move this process forward in the area of mainstreaming ICT for development.

Adopting such a strategic position for ICT for development would demand significant resource and mainstreaming commitments from the UNDP. The UNDP's new programming framework is under development. It would be useful to see a clear and renewed focus on ICT for development.[27] Without it, an opportunity would be lost. ■

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27 The UNDP administrator indicated some awareness of the issues in a press briefing the day after he took up office: "Of course, the other major revolution we are all experiencing, a tremendous breakthrough in communications technology, again opens a lot of doors to a much more effective global development. People can be connected more easily, can market their products, and can access information much more easily. So, if we are able to put all these things together, we really might have a chance to really make poverty history, as this beautiful sentence goes. So to be at the heart of this struggle with colleagues, of course, from all over the world at this moment is terribly exciting." UNDP. *Press Briefing with Kemal Dervis*, 16 August 2005. Available from: <vis-20050816.en" content.undp.org/go/newsroom/august-2005/press-briefing-dervis-20050816.en>.

World Intellectual Property Organisation (WIPO)

Robin Gross

WEBSITE: www.wipo.int	
HEADQUARTERS: Geneva, Switzerland	
FOUNDED: 1967	
UN STATUS: UN specialised agency since 1974	
TYPE: Intergovernmental organisation (184 member states)	

Introduction

Objectives and main activities

The World Intellectual Property Organisation (WIPO)[1] is the United Nations specialised agency that coordinates international treaties regarding intellectual property rights. Its 184 member states comprise over 90% of the countries of the world, who participate in WIPO to negotiate treaties and set policy on intellectual property matters such as patents, copyrights and trademarks.

WIPO was established in 1967 by the WIPO Convention, which states that WIPO's objective was "to promote the protection of intellectual property throughout the world…" (WIPO, 1967, Article 3). Headquartered in Geneva, Switzerland, WIPO currently administers 24 treaties and facilitates the negotiation of several proposed treaties covering copyrights, patents and trademarks.

Although WIPO was originally established explicitly to promote the protection of intellectual property, when it joined the UN family in 1974 its objective had to be redefined as a public-interest or humanitarian goal. Article 1 of the key agreement establishing WIPO's relationship to the UN restates WIPO's purpose as: "for promoting creative intellectual activity and for facilitating the transfer of technology related to industrial property to the developing countries in order to accelerate economic, social and cultural development…" (WIPO, 1974).

The five strategic goals laid out by WIPO in its 2005-2006 programme and budget are:

- To promote an extensive intellectual property culture

- To integrate intellectual property into national development policies and programmes

- To develop international intellectual property laws and standards (partially defined as promoting laws forbidding the circumvention of technological restrictions)

- To deliver quality services in global intellectual property protection systems

- To increase the efficiency of WIPO's management and support processes.

WIPO is unique among UN organisations in that its activities are largely self-funded. Approximately 90% of WIPO's 2006-2007 budget of CHF 531 million (USD 440 million) comes from the fees its earns for international trademark registrations and patent applications. The remaining 10% of WIPO's budget is earned from fees for its arbitration and mediation services, publications, and from small contributions from member states.

Key members/participants and decision-making structures

WIPO is made up of 184 member states and operates on a "one country, one vote" basis. It is governed by a General Assembly, which convenes each autumn and oversees the activities of the organisation, including its budget, while a number of issue-specific committees work on the substantive issues. The revenues generated from patent and trademark fees enable WIPO to support a staff of approximately 1,000 people, which is rather large by UN standards.

The agency operates through individual member states meeting in committees, assemblies, and working groups, which are coordinated by the WIPO Secretariat. Most member states appoint career civil servants from their capitals to participate in meetings and negotiations. WIPO committees work according to a consensus-based decision-making structure, which generally means no action is taken unless all member states agree.

In theory, WIPO's strategic direction and activities are decided by the member states, but in practice, the WIPO Secretariat, based in Geneva, is given enormous power to influence and direct the work and objectives of the organisation under the WIPO Convention.

Furthermore, on any particular issue, not only top WIPO staff but also the chair of the relevant WIPO committee wield the power to drive the organisation's agenda through the framing of the debate in that committee. The election of the chair is the first item on the agenda of meetings. Member state delegates, including the chair, participate at WIPO with the costs paid by the member state. Committee chairs decide which proposals become text for a treaty and which proposals are deleted from draft treaty texts; they decide how the proposals are framed, and whether or not civil society may speak at WIPO meetings.

Civil society or non-governmental organisation (NGO) participation is allowed at WIPO through an accreditation process that takes place once a year to obtain official "observer" status. Besides governments and civil society, WIPO also allows for intergovernmental organisation (IGO) participation in its meetings. While WIPO boasts that over 250 NGOs and IGOs currently have official observer status at WIPO, the vast majority of these NGOs are trade industry organisations from wealthy countries participating for the purpose of maximising private gain. Participation at the 2005-2006 WIPO Development Agenda meetings is illustrative of this fact.

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1 <www.wipo.int>.

Balance in the WIPO Development Agenda?
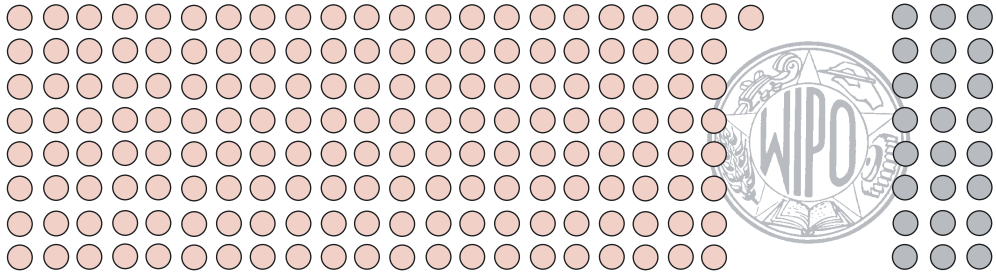
Hardly. Of the 193 non-governmental organisations (NGOs) eligible to attend WIPO's Development Agenda summit, only 24 work explicitly on improving conditions in developing countries. So when WIPO holds a meeting about intellectual property in the developing world, the groups that actually work there will be outnumbered 7 to 1.

Relations with other international institutions and the multilateral system

WTO-TRIPS

Although WIPO administers 24 treaties that deal with intellectual property rights, the World Trade Organisation (WTO) administers what is arguably the most important treaty on the subject, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Unlike WIPO treaties, the TRIPS Agreement includes powerful enforcement mechanisms such as trade sanctions and litigation before the World Court[2] that force countries into compliance with the provisions in the agreement.

The WTO's TRIPS Agreement was signed in 1994, and states in its preamble the desire to "establish a mutually supportive relationship between the WTO and the World Intellectual Property Organisation" (WTO, 1994). In 1996 the WTO and WIPO signed a cooperation agreement to facilitate the implementation of the TRIPS Agreement.

The 1996 WTO-WIPO cooperation agreement provides for cooperation in three main areas, specifically the notification of, access to and translation of national intellectual property rights laws; implementation of procedures for the protection of national emblems; and technical cooperation. Since the 1996 agreement, the WTO and WIPO have launched two additional technical cooperation agreements in 1998 and 2001 to spur developing nations into conforming with the TRIPS requirements in their national laws.

Internet Corporation for Assigned Names and Numbers (ICANN)

WIPO also maintains a close relationship with the Internet Corporation for Assigned Names and Numbers (ICANN).[3] In 1999 ICANN instituted a regime for trademark dispute resolutions that was originally proposed by WIPO, the Uniform Domain-Name Dispute-Resolution Policy (UDRP). Under the UDRP most ICANN-accredited generic top-level domain name (gTLD) registrars – and the country code top-level domain name (ccTLD) registration authorities that have adopted the policy[4] – are contractually bound to submit to arbitration through WIPO's Arbitration and Mediation Centre. The UDRP allows anyone to challenge the registration and ownership of domain names based on the claim that the domain name infringes a trademark, and the actual dispute resolution process is handled by independent service providers accredited through the Centre (ICANN, 1999).

A WIPO press release in October 2006 announced that its Arbitration and Mediation Centre, which accredits the dispute resolution service providers, had decided its 25,000th case, ordering the transfer of the domain name to the trademark owner.

Besides the UDRP, WIPO and ICANN have also implemented policies dealing with the introduction of new gTLDs that give trademark holders special rights to preemptively register and challenge registrations of new gTLDs. Under these so-called "sunrise" provisions, trademark holders are given the right to pre-register their name before anyone else can. Although trademark law does not grant trademark holders

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2 Formally known as the International Court of Justice (ICJ), the United Nations' highest court, based in The Hague.

3 <www.icann.org>.

4 More information is available from: <www.wipo.int/amc/en/domains>.

the special rights that ICANN's policies for domain name registrations give them, the policies were instituted at the suggestion of WIPO to privilege trademark owners in cyberspace.

Another ICANN policy that was recommended by WIPO is the controversial policy on ICANN's WHOIS database and its publication of private information on the internet. Under ICANN's WHOIS policy, the personal contact information – including home address and telephone number – of everyone who has ever registered a domain name is put into a free online database available to anyone for any reason. As a result of ICANN's policy (which originated from WIPO), the WHOIS database is one of the largest sources of data for engaging in consumer abuses such as identity theft, fraud, and other privacy violations.[5]

In 1998 WIPO issued a report in response to the creation of ICANN insisting that publicly available databases for the complete and accurate contact information of all domain name registrants should be made available, regardless of privacy concerns. WIPO's report proposed that providing any inaccurate registration data should be grounds for forfeiting the domain name, regardless of whether there has been any violation of intellectual property rights or of any other kind.

Although ICANN's Generic Names Supporting Organisation (GNSO) Policy Council voted in April 2006 that the purpose of the WHOIS database is narrow and only technical, large intellectual property holders continue to argue that the database of personal information must remain open to all in order to protect intellectual property interests.

Commitment to development, equality and openness

As noted above, Article 1 of the 1974 agreement between WIPO and the UN redefined WIPO's mission as: "to accelerate economic, social and cultural development" in alignment with the UN's humanitarian objectives (WIPO, 1974). But despite its obligation to the UN, WIPO officials still point to the 1967 WIPO Convention to state WIPO's purpose as: "to promote the protection of intellectual property" (WIPO, 1967).

In response to this attitude, a global civil society movement began coalescing in 2004 around the Geneva Declaration on the Future of WIPO,[6] which is aimed at reforming WIPO's policies and practices to address the needs of developing countries and the objective of promoting access to knowledge. In addition, a number of member states themselves have also risen to the call for change at WIPO by working for the adoption of a "Development Agenda". WIPO has responded by "circling the wagons" and obstructing the attempts for reform. Both efforts are discussed more thoroughly below.

In leadership positions, WIPO remains heavily dominated by males consistently filling the top posts. As of January 2007, WIPO's director general and all four deputy director general posts were all filled by men, as are the top posts of assistant director general, legal counsel, and senior counsellor. There are a number of women work-

ing at WIPO, but they are not in top leadership positions.[7] The top officials at WIPO on each of the substantive issues of copyrights, patents, and trademarks are all men.

However, a growing number of member states send women to participate at WIPO as part of their delegations, and many of these women provide leadership in an unofficial but remarkably successful fashion. Women delegates from developing countries in particular, such as Argentina and India, have proven instrumental in building consensus and promoting the Development Agenda at WIPO. But a woman has yet to be elected the chairperson of the copyright committee or Development Agenda negotiations.

As noted above, NGOs may participate in WIPO deliberations as observers, upon completion of a prescribed process. But there is no distinction between public-interest and private-interest NGOs at WIPO, and consequently, private industry NGOs largely outnumber public-interest NGOs. However, these numbers are constantly in flux and public-interest participation has grown significantly since 2004. Until recently, there were few voices at WIPO to challenge industry groups such as the international pharmaceutical manufacturers who claimed to be a "public-interest NGO" at the 2005 Development Agenda talks and were quickly taken to task by a number of library groups. But by and large, only NGOs who can afford to regularly send representatives to Geneva or maintain an office there can participate at WIPO and this represents an enormous barrier for developing country NGOs in particular.

Role and responsibilities in ICTs

WIPO "Internet Treaties"

Before the 1990s WIPO played a minimal role in setting rules in the area of information and communications technologies (ICTs). This has much to do with the evolving role of intellectual property rights in general. In the past, intellectual property rules did not apply to personal communication technologies, since they mainly concerned large publishing houses or major companies. But with the development of personal communication technologies, particularly computers and the internet, intellectual property rules have become one of the most important determinants in setting ICT policy and regulation. Because digital technology inherently requires making copies of data, copyright rules are automatically triggered in the digital environment. And because the internet provides a new forum for infringement of copyright and trademark, intellectual property rules have been catapulted into prominence. Patents and trade secrets are increasingly used in technical standards, so such rules are similarly growing in importance in setting ICT policy. As intellectual property rules in general become more relevant in regulating communication, WIPO's role has also increased.

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5   More information about WHOIS is available from: <gnso.icann.org/issues/whois-privacy>.

6   Available from: <www.cptech.org/ip/wipo/futureofwipodeclaration.pdf>.

7   In 2001 the WIPO post of deputy director general for copyrights was filled by Rita Hayes, a female appointee from the administration of then US President Bill Clinton, but Ms. Hayes was replaced by a male from the George W. Bush administration in 2006.

In 1996 WIPO passed two treaties collectively known as the "Internet Treaties" in response to the demands of intellectual property holders worried about infringement in cyberspace. The passage of the WIPO Copyright Treaty (WCT) (WIPO, 1996a) and the WIPO Performances and Phonograms Treaty (WPPT) (WIPO, 1996b) marked an important change for WIPO's involvement in setting ICT regulation (and for copyright law).

Among other ambitions, the WCT and WPPT gave copyright owners the unprecedented right to use technological restrictions to control the use of digital media by making it illegal to bypass those restrictions. Specifically, the WCT/WPPT require member states to provide adequate legal protection and effective legal remedies against the circumvention of technological restrictions used to protect a copyrighted work.

These WIPO treaties have been implemented in the US in the form the 1998 Digital Millennium Copyright Act (DMCA), and in Europe through the EU Copyright Directive (EUCD) and the various national legislations that outlaw circumvention of technological restrictions. However, the DMCA and EUCD actually outlaw much more activity and technology than the WIPO Internet Treaties require. The DMCA, in particular, is often referenced at WIPO and by large intellectual property rights holders as the "model" for implementing these treaties, despite its extremity. The DMCA is very controversial in the US since its overbroad anti-circumvention provisions have been invoked to prevent competition in markets unrelated to copyright, stifle criticism about technical weaknesses, and force consumers to pay extra to engage in otherwise lawful uses of digital media.

The WIPO Internet Treaties of 1996 were only the beginning for WIPO's involvement in ICT policy-making. Increasing the rights of broadcasting companies in the digital environment has been on the agenda of WIPO's copyright committee since the late 1990s. In 2005, after seven years of negotiation at WIPO over a treaty to create new rights for broadcasting companies, the US proposed that the scope of the proposed broadcasting treaty be widened to include the regulation of webcasting or "internet transmissions of media" as well. The US was virtually alone in the desire to include webcasting in the broadcasting treaty, but was initially unwilling to change its position.

However, at the May 2006 meeting of the WIPO Standing Committee on Copyright and Related Rights, the backers of the proposed broadcasting treaty feared it was in danger of outright rejection if the US insisted on extending it to the unpopular webcasting rights. Consequently, a deal was reached that removed the US webcasting provisions in exchange for a promise to bring them back in 2007 in the form of a much larger and more encompassing treaty to deal with internet transmissions of media. Thus WIPO announced that it intends to embark on a whole new "Internet Treaty" to regulate webcasting and the transmission of audio and video programming over the internet.

Even with the removal of webcasting provisions from the text of the proposed broadcasting treaty, the draft treaty still regulates all internet retransmissions of broadcast programming. WIPO is definitely seizing the moment to regulate ICT policies to a much greater extent than it has in the past.

Internet governance

WIPO has also begun to play a role in the more general "internet governance" debates. As described above, WIPO has worked closely with ICANN to set its UDRP policy to deal with infringement claims over domain names and to institute provisions that privilege trademark holders with early registration and cancellation rights for new domain names.

WIPO also participated in the UN World Summit on the Information Society (WSIS), which took place from 2003 to 2005 in Geneva and Tunis,[8] although it did not play a significant role there. WIPO's main goal at WSIS appeared to be to prevent any serious discussion about the appropriate balance of intellectual property rights in cyberspace. WSIS organisers similarly deemed intellectual property rights "too controversial" for serious discussion at WSIS.

However, WIPO did hold an Online Forum on Intellectual Property in the Information Society in June 2005 to "encourage debate on the topic of intellectual property in the information society and in furtherance of the goals of WSIS."[9] The conclusions of the Online Forum became a significant part of WIPO's contribution to WSIS. WIPO was given a speaking slot during the plenary session at the 2003 Geneva Summit and the 2005 Tunis Summit, but did not significantly contribute to the overall WSIS debate, apart from keeping serious international property rights (IPR) discussions "off the table".

In 2005 WIPO was given a seat on the UN Working Group on Internet Governance (WGIG), a WSIS initiative. However, the WGIG deemed its sub-committee's paper on IPR issues too controversial to become part of the WGIG final report. WIPO has not made any significant contributions to the UN Internet Governance Forum (IGF), either. WIPO did not participate in the May 2006 IGF Open Consultations; nor did WIPO attend the meeting of the IGF Advisory Group, though it was entitled to as a UN specialised agency. Indeed issues about the appropriate balance for intellectual property rights in cyberspace were prominently on the agenda at the inaugural IGF meeting in Athens in November 2006, although WIPO officials did not play a large role in those discussions. The IGF is a discussion forum, not a treaty-making body, so participation in the IGF may be less of a priority for WIPO.

Description and analysis of ICT activities

In recent years WIPO has attracted controversy in a number of areas where its mandate and activities apparently diverge from the UN's humanitarian goals.

Geneva Declaration on the Future of WIPO

In September 2004, many prominent legal scholars, scientists, activists, public-interest NGOs, a 2002 Nobel Prize winner for physiology, a former French prime minister, and several thousand other concerned global citizens published the Geneva Declaration on the Future of WIPO.[10]

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8   <www.wsis-online.net>.

9   WIPO's Online Forum on Intellectual Property in the Information Society: <www.wipo.int/ipisforum/en>.

10 <www.cptech.org/ip/wipo/futureofwipodeclaration.pdf>.

The Geneva Declaration called upon WIPO to reform its "culture of creating and expanding monopoly privileges, often without regard to the consequences." The declaration said that WIPO's "continuous expansion of these privileges and their enforcement mechanisms has led to grave social and economic costs, and has hampered and threatened other important systems of creativity and innovation."

The Declaration called upon WIPO to:

...enable its members to understand the real economic and social consequences of excessive intellectual property protections, and the importance of striking a balance between the public domain and competition on the one hand, and the realm of property rights on the other.

The Declaration also requested that WIPO undertake a Development Agenda and new approaches to supporting innovation and creativity. It asked WIPO to take into account the different developmental needs of member states in setting IPR policies:

A "one size fits all" approach that embraces the highest levels of intellectual property protection for everyone leads to unjust and burdensome outcomes for countries that are struggling to meet the most basic needs of their citizens.

While the well-publicised Declaration did not itself have legal significance or power to reform WIPO, it served well as a "shot heard around the world" that highlighted WIPO's poor record on protecting the public interest and the need for reform.

Development Agenda

The timing of the Geneva Declaration on the Future of WIPO in September 2004 coincided with a proposal from member states Brazil and Argentina before the WIPO General Assembly for the establishment of a Development Agenda for WIPO (WIPO, 2004). The 2004 WIPO General Assembly adopted the resolution for the establishment of a Development Agenda to reform WIPO's practice of blindly increasing intellectual property rights:

Intellectual property protection cannot be seen as an end in itself, nor can the harmonisation of intellectual property laws leading to higher protection standards in all countries, irrespective of their levels of development.

The role of intellectual property and its impact on development must be carefully assessed on a case-by-case basis. Intellectual property protection is a policy instrument the operation of which may, in actual practice, produce benefits as well as costs, which may vary in accordance with a country's level of development. Action is therefore needed to ensure, in all countries, that the costs do not outweigh the benefits of intellectual property protection.

In April 2005 Brazil and Argentina were joined by twelve other developing countries, collectively called the Group of Friends of Development (FoD), to elaborate on the goals of the Development Agenda at WIPO. The FoD proposal calls for a fundamental review of WIPO's overall mandate and governance structure. It asks WIPO to adopt pro-development norm-setting standards. The FoD proposal suggests principles and guidelines for WIPO's technical assistance programme, as well as guidelines for technology transfer and competition policy work at WIPO. The FoD proposal also calls on WIPO to live up to its role as a UN specialised agency by promoting the public interest and development concerns in all WIPO activities.

WIPO held three intersessional meetings in April, June and July 2005 to debate the various proposals for a Development Agenda. Global public support for the FoD proposal swelled. Over 138 public-interest NGOs from all corners of the globe signed a statement in support of the FoD proposal for reform at WIPO and a rebalancing of global intellectual property rules.[11] But in the final intersessional meeting in July 2005, the US and Japan refused to agree to any of the proposals for a Development Agenda and were able to prevent a consensus from being reached. As a result of two hold-outs and lack of consensus, no substantive recommendations could be made to the 2005 General Assembly for a Development Agenda at WIPO.

Member states at the 2005 WIPO General Assembly once again voted to endorse a Development Agenda and to continue and complete discussions through intersessional meetings in 2006. Intersessional meetings were held in February and June 2006 to again discuss proposals related to a Development Agenda at WIPO. FoD proposed a set of draft recommendations at the June meeting for specific concrete reform to present to the 2006 General Assembly. But the so-called Group B countries – i.e. the wealthiest member states, including the United States and Europe – refused to endorse any of the proposals, again preventing consensus and any progress on a Development Agenda. The meeting's chair, Paraguayan Ambassador Rigoberto Gauto Vielman, put forth an alternative proposal for recommendations that contained mostly suggestions from the wealthy countries, but that proposal gained even less support.

Despite the lack of concrete recommendations for a second year in a row, the WIPO General Assembly in 2006 voted for the third time to hold discussion of proposals for a Development Agenda at WIPO. The General Assembly agreed to hold two week-long sessions in 2007 to discuss the 111 proposals made thus far. The first meeting would address the 40 controversial proposals identified by Chairman Gauto Vielman, and the second would address the remaining 71 proposals that are mostly from developing countries. If member states reach a consensus, recommendations will be made to the 2007 WIPO General Assembly for action on proposals with agreement and a framework to move forward with the remaining proposals. Without support from the wealthy member states, reform at WIPO is almost impossible.

Proposed WIPO broadcasting treaty

As noted above, the controversial proposal to create unprecedented new rights for broadcasting companies represents another opportunity for WIPO to regulate ICTs. More than seven years into discussions, even the most basic provisions of the proposed WIPO broadcasting

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11 See: <www.ipjustice.org/WIPO/NGO_Statement.shtml>.

treaty have not been agreed upon by member states. Whether the treaty will create entirely new intellectual property rights (as proposed by Europe) or take a traditional "signal theft" approach to protecting broadcasts is still up in the air. The extent to which the treaty will regulate internet retransmissions of broadcast programming remains contentious. The inclusion of the unpopular anti-circumvention rights for broadcasting companies in the treaty text is disputed by most member states. Limitations and exceptions to the new rights created for broadcasting companies are yet to be determined, and key terms such "signal" have yet to be defined in the treaty.

Nonetheless, in September 2006, the chair of the Standing Committee on Copyright and Related Rights (SCCR), Jukka Liedes, called for "silent approval" of his proposal for the Committee to recommend to the 2006 General Assembly that a diplomatic conference be convened to conclude final treaty drafting. A number of member states expressed disapproval of Liedes' push to conclude the treaty, including India, Brazil, Argentina, Chile, Bolivia, Iran and South Africa. Even the US dropped its support for the proposal at the September 2006 SCCR meeting after the US technology industry began to complain about the draft's harmful impact on technological innovation.

At the 2006 WIPO General Assembly, member states rejected the controversial recommendation of SCCR Chairman Liedes to convene a diplomatic conference and instead called for two additional meetings in 2007 to try to reach agreement on the many points of contention. The autumn 2006 General Assembly voted to convene a diplomatic conference on the broadcasting treaty *only if* agreement could be reached before the 2007 General Assembly.

This was not the first instance in which Chairman Liedes ignored the WIPO principle of consensus-based decision-making. In November 2004 Liedes had called for moving the discussions on the broadcasting treaty to regional consultations in 2005. Many member state delegates claim that Liedes' move was illegal since a number of countries openly objected to his proposal for regional consultations.

Developing countries, including Brazil, India, Egypt, and Argentina, requested intersessional meetings in Geneva with all member states present to discuss the proposed treaty's provisions. Because this would offer both developed and developing countries an opportunity to discuss their differences together, and allow for the input of public-interest organisations in the debate, intersessional meetings seemed the appropriate next step.

But Chairman Liedes recommended instead to send debate on the proposed broadcasting treaty to secretive regional meetings, where it is easier to pressure individual countries into accepting the treaty through a "divide and conquer" strategy. WIPO regional meetings take place completely outside of the public eye, and accredited NGOs are not permitted to attend or participate in regional meetings without a special invitation from WIPO. In the past, however, the US and the EU have been allowed to participate in other region's meetings, such as the African Group's regional meetings, to help convince African countries to pass certain WIPO treaties.

In November 2006 WIPO convened a secret meeting in Geneva to persuade key member states to accept the proposal on broadcast-

ing. WIPO officials, Chairman Liedes, and representatives of Europe, the US, Japan, Brazil, India, and South Africa attended the secret meeting, but no agreement could be reached. Liedes and European officials continue to push for an "exclusive rights" approach even though the 2006 General Assembly voted that treaty discussions should take a "signal theft" approach.

Debate over the proposed broadcasting treaty continues in 2007 with discussions at WIPO scheduled for January and June, and possibly a diplomatic conference in November 2007, if differences can be eliminated.

Stakeholder participation

In many respects WIPO has been slow to accept its revised role as an entity accountable to the global public interest and unfortunately continues to view its main objective as promoting intellectual property rights and the interests of major intellectual property holders. In part, this tendency is reinforced by WIPO's main funding source: fees from trademark and patent applications and registrations for large companies. WIPO, like any organisation, operates in the interest of its funders. While WIPO's financial autonomy is in some senses an asset, there can be unintended negative consequences. Without financial accountability to the values of the UN, WIPO is further divorced from pursuing a public-interest mission and work plan.

IPR "maximalist" culture in WIPO power structures

One of the main barriers to balanced policy-making at WIPO is the strong culture of promoting intellectual property rights within its staff and personnel. WIPO tends to hire and work with people who hold the viewpoint of industry and who therefore tend to be IPR "maximalists" in their training and perspective. This is particularly true at WIPO's highest levels, and the culture easily permeates on down throughout the entire organisation. Countries such as the US appear to be guaranteed key posts at WIPO in order to direct global IPR policy in the interest of the US more effectively.

WIPO's Secretariat, or International Bureau, draws staff from over 90 countries, but leadership positions and policy-making roles tend to be dominated by representatives from wealthy countries with a particular legal tradition and perspective on intellectual property rules. Indeed three of the four deputy director general positions at WIPO are held by officials from Group B member states – the world's wealthiest nations – and they tend to be united in their approach.

Top WIPO posts, such as the deputy director general for copyrights, are successively held by representatives of the US government. In 2006, the US government replaced Rita Hayes, a US Democratic Party supporter, with Mike Kepplinger, a US Republican Party supporter, in the WIPO post of deputy director general for copyrights. A number of member states complained about the apparent presumption that the top position for setting global copyright rules would be once again filled by a representative of the US government. Under the WIPO Convention, the director general appoints the deputy directors general after their approval by a Coordination Committee.

The Uniform Domain-Name Dispute-Resolution Policy

WIPO's UDRP, which adjudicates trademark infringement disputes for domain names, has also come under growing criticism.

WIPO announced in October 2006 that since the inception of the UDRP, 84% of the panels had awarded the domain names to the claimants (i.e. the trademark holders), ruling in favour of the original registrant in only 16% of cases.

The one-sided decisions of WIPO panels can be partially explained by the procedural bias in favour of complainants that is built right into the UDRP. The procedure allows the complainant to choose the dispute resolution service provider, and since the arbitrators are all competing for business, there are obvious incentives to find in favour of claimants. Over the years, most "independent" WIPO arbitrators have obtained the reputation for being favourable to trademark holders in their decisions; and those arbitrators who find in favour of the original registrant are not hired to settle disputes for long and eventually leave the business. Besides being inherently favourable to trademark holders by permitting "forum shopping", the UDRP also provides inadequate time for registrants to react to a claim of trademark infringement in order to defend a registration.

Further issues arise over WIPO's technical assistance programmes, which tend to reflect the viewpoint of large intellectual property holders in the US and EU. Developing countries are not fully informed about their rights and obligations by the WIPO technical assistance programmes. For example, the right under international law that member states have to enact limitations and exceptions to exclusive rights is inadequately addressed. WIPO tends to favour funding innovation via traditional IPR business models over innovative new models for rewarding creativity.

Consensus-based decisions problematic

Because WIPO decisions are taken according to consensus, meaning that no action can be taken unless all member states agree, reform at WIPO will be difficult to achieve. A striking and important example is the proposal for a Development Agenda at WIPO, where the overwhelming majority of member states have been calling for specific reforms for three General Assemblies in a row, yet no action has been taken because the US along with Japan or Europe are able to block any reform.

Another example is the proposed broadcasting treaty, where a WIPO committee chair is willing to ignore the explicit objections of member states and claim he has "silent approval", thus attempting to circumvent WIPO's consensus-based decision-making structure. In this case, however, it should be noted that the 2006 WIPO General Assembly refused to allow the SCCR chair action by ultimately rejecting his recommendation.

Too much power in hands of WIPO Secretariat

The WIPO Secretariat is given a great deal of power to set agendas for meetings and prepare drafts of texts for consideration.

In the SCCR, for example, it is the chair who prepares all the draft proposals for a broadcasting treaty. The chair has consistently refused to remove unpopular provisions from the draft, such as the anti-circumvention rights, even though the overwhelming majority of member states have requested the removal of the controversial provisions. Committee chairs decide where there is agreement and which proposals to include or not include in the treaty drafts. Some, as noted, even claim to have "silent approval" as they bang the gavel to close the meeting, even after a number of explicit objections are raised.

Member state delegates also complain about the one-on-one "arm-twisting" sessions they have to endure from WIPO officials on policy matters. This issue raises the question of why WIPO is trying to tell member states what their laws will be. It is astonishing to observe member state delegates having to argue with a chair regarding what to include in a treaty proposal. Is it not WIPO's role merely to facilitate the wishes of the member states?

At some level, however, it is the member states who must take responsibility for allowing the WIPO Secretariat and chairs to get away with so much. Member states elect the chair for each meeting and they have voluntarily chosen to re-elect chairs who ignore their concerns. SCCR Chairman Jukka Liedes has been re-elected as chair for ten years in succession, although some delegates argue WIPO rules do not allow the same person to serve as chair in back-to-back sessions, a point which sparked controversy at the November 2004 SCCR meeting.

The committee chairs and the WIPO Secretariat also have much leeway in regulating the way in which civil society is allowed to participate in the meetings. At several recent SCCR meetings on the broadcasting treaty, Chairman Liedes announced that civil society would not be allowed to take the floor during the meeting. At the January 2007 SCCR meeting, Liedes announced that NGOs would have to leave the meeting at which the substantive discussion was to occur, because he decided the substantive debate would be called "informal discussions", something NGOs are not allowed to participate in at WIPO. In fact, despite WIPO's claim of open participation, NGOs have not been allowed to speak for several SCCR meetings. More informally, the SCCR Secretariat has reduced (or eliminated in some cases) the coffee breaks between formal consultations, which is particularly important because that is often the only time for civil society representatives to talk with delegates about the issues. And the "overflow" room at WIPO which seats additional civil society representatives is no longer available during meetings.

These attempts to silence NGO voices are nothing new. At the November 2004 SCCR meeting, delegate briefing papers from public-interest NGOs were stolen from the floor table and later found in the lavatory rubbish bin. When civil society representatives asked WIPO officials for assistance over the stolen documents, WIPO Deputy Director General Rita Hayes said security would not be provided because she was unhappy about civil society publishing reports about the meetings on the internet.

General challenges for effective participation

Another obstacle confronts poorer countries in their attempts to participate effectively at a highly technical and legalistic agency such as WIPO: the inherent imbalance between the capacity of wealthy and poor countries to participate.

Large and wealthy countries such as the US send teams of delegates from the US Patent and Trademark Office, the US Department of Commerce, and the US Copyright Office. They consist of specialists in trade negotiation and international intellectual property rights, and are trained to represent the perspective of industry. Wealthy countries can maintain a constant presence at their permanent missions in Geneva with delegates who are able to focus their efforts exclusively on WIPO.

But the less wealthy countries cannot afford to send large delegations to Geneva, and instead send a single person who might be responsible for covering all the activities of WIPO, WHO, UNESCO, the ILO, and other UN agencies. These representatives are less likely to be specialists in intellectual property rights and less likely to be aware of a diversity of viewpoints on issues. And representatives from the poorest nations remain in their capital city and rely on communications with Geneva to try to keep on top of what is happening at WIPO. However, official final committee reports and meeting notes can take from six to nine months to be published by WIPO and are therefore always out of date with the actual negotiations.

Conclusions and recommendations

WIPO's problems

Undemocratic

While WIPO can claim some degree of equality among member states because each country has one vote, the reality is rather different. It is often the wealthy countries and blocs, particularly the US and Europe, whose opinions matter and who drive the agenda at WIPO. WIPO could be more accurately described as a forum in which the loudest or most insistent voices from the wealthy countries prevail. It is also a forum in which the Secretariat and chairs are given a great deal of power to circumvent the wishes of the member states.

Private interests trump public interest

Intellectual property rights have become an "end" in and of themselves at WIPO. WIPO officials are the first to claim that WIPO's mission is to promote intellectual property rights at a global level. Since intellectual property rights are ultimately private rights, their promotion is the promotion of private interests, mainly those of major record labels, movie studios, publishing houses, and large pharmaceutical companies. The UN, and WIPO as its agent, have a primary obligation to promote the global public interest, an obligation that appears to be in jeopardy here.

Lack of transparency

Many decisions at WIPO are taken behind closed doors and are not part of the official record. Deals are often brokered during informal consultations, although this is not unusual for international treaty negotiations. However, the lack of transparency over WIPO's technical assistance programmes is a real problem. Much of the technical assistance materials are not available on the internet for journalists, legal experts, and others to read and comment on. And WIPO's practice of sending controversial discussions such as the proposed broadcasting treaty to secretive regional consultations, where civil society cannot attend, reflects poorly on WIPO's record on transparency.

Too "diplomatic"

Geneva-based member state delegates tend to be career diplomats, working in Geneva only for a few years on IPR issues and then moving on to other issues. Because the delegates are career diplomats, they tend to be very "diplomatic" and rarely wish to offend or openly disagree with anyone. This "Geneva culture", while having its benefits, particularly in dealing with delicate international negotiations, can also have its drawbacks. The situation becomes particularly problematic for delegates in voting for a new committee chair, since they do not wish to offend. The diplomatic Geneva culture helps WIPO to stay away from controversial issues and maintain control of leadership. For the most part, delegates have no personal interest in "rocking the boat." Only the more powerful countries like the US and the EU can afford to take controversial and unpopular positions. Often, the US and the EU agree upon who should fill a post at WIPO, putting other member states in the position of having to dissent with a powerful trade partner in an undiplomatic fashion.

Recommendations for improving WIPO

Development Agenda and A2K Treaty

WIPO should pay attention to the message of the member states at the last three General Assemblies and incorporate a Development Agenda into WIPO's core policies and practices. WIPO should update its mission to more explicitly align itself with the UN and its humanitarian objectives. WIPO's mission and activities should explicitly recognise that countries in different stages of development have different needs and responsibilities. WIPO should pass an Access to Knowledge (A2K) Treaty[12] that encourages the use of technology to promote education and individual empowerment.

New leadership in key WIPO positions

WIPO needs to incorporate people who hold a diversity of viewpoints into its leadership, particularly in top policy-making positions. Developed-country officials hold three of the four deputy director general positions, even though these countries tend to speak with a united voice at WIPO. It is time that an Argentine, Indian, Brazilian or other developing-country delegate served as chairperson of the SCCR or filled the post of deputy director general for copyrights at WIPO. This is something that member states must do themselves through sustained organisation and coalition-building. WIPO will not change unless member states force it to change, so there is no escaping the responsibility of member states to take control of WIPO.

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12 For more information see: <www.access2knowledge.org/cs/>.

Encouragement of more diverse views

WIPO should do more to encourage input and participation from a diversity of viewpoints. Rather than allow a single nation to dominate global policy on a given subject by successively filling WIPO's top post on that issue, WIPO should rotate according to geographic region and in an unbiased way which government fills top WIPO posts. Public-interest NGOs, particularly those from developing countries, should be allowed to speak at the meetings and make their papers available, and more WIPO seminars and technical assistance programmes should include speakers from public-interest NGOs and developing nations. The concerns of librarians, civil liberties groups, open source software developers and teachers, and especially those from developing countries, need to be given voice in WIPO's corridors.

IPR "agnosticism"

WIPO should become "IPR agnostic" and not insist on blindly promoting intellectual property rights out of a simple belief that "more is better." WIPO should explore new models of rewarding creativity and promote whatever models encourage the creation and dissemination of knowledge and culture. Traditional business models that rely upon copyrights and patents are not the only means of promoting creativity and rewarding innovation. New viral distribution marketing channels take advantage of the benefits of digital technology and work by spreading information, as opposed to preventing access to information. WIPO should not favour traditional business models over innovative new models in its work programme, and it should refocus its efforts on promoting creativity and innovation by whatever means possible.

Greater oversight and accountability from the UN

If WIPO were more financially dependent upon the UN to carry out its work programme, its work programme would be more closely aligned with the UN's humanitarian objectives. It is time that UN officials realise what has been going on at WIPO in the UN's good name for the last fifteen years. The UN will also have to rein in WIPO and make it more accountable to the global public interest for WIPO to gain any legitimacy in international treaty-making. As long as WIPO's budget is entirely independent from the UN, the UN will have little means of holding it accountable to the global public interest. As long as WIPO's funding continues to come from major intellectual property holders, the objectives of those industries will continue to be promoted at WIPO. The UN and its member states must together reform WIPO to more accurately reflect the global public interest. ■

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