

Answer/Comment to the WGIG Questionnaire

IGTF-J (Internet Governance Task Force of Japan)

<http://www.igtf.jp>

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Process/Function 1

1. Is there need for an additional arrangement or body?

No, in principle there isn't need for an additional arrangement nor body.

Whenever we have had issues regarding the Internet, individuals or organizations that thought it necessary to address those issues have been able to do so voluntarily and cooperatively. To date, collectively we have been able to solve those issues. Such dynamic and open processes enable the right people to be in the right place to address the issues that concern and involve them at the right time. This is how the existing "distributed governance architecture" was made up, which has worked very well so far, and will work well in the future if and when any new issues emerge.

Those who insist on the need for a new forum to address a wide range of issues without clearly specifying what are the possible subjects related to "broad public policy issues" or "emerging issues", should indicate the disadvantages of the current dynamic process – which we believe have worked well so far — or indicate any evidence why it will not function well in the future, and should explain how the proposed new forum could overcome these shortcomings.

One of the possible explanations could be the timeliness of addressing emerging issues. However, it's like saying "we need to prepare for any kind of dangers including those of very little possibility with small damages". Hence there will be additional costs associated with creating and maintaining such a new forum and we will have to bear those costs. Therefore, if we establish a new forum, we need to consider a framework of cost distribution and the forum's cost effectiveness. Our conclusion is such a forum cannot achieve success when we take those factors into consideration.

If the answer to question 1 is yes:

The answer to question 1 is no, therefore we will not answer the remaining questions in that section.

Process/Function 2: “Oversight function”

1. When talking about oversight, what functions do you envisage (simple audit function, arbitration, policy direction or any other function) and over what areas of activities?

We think “simple audit function” is the appropriate function.

2. Should the ICANN’s Government Advisory Committee (GAC) be transformed and take on some oversight functions?

No, it shouldn't. According to the ICANN bylaws, the current GAC is designed as the part of ICANN's consensus development process and it has functioned as a place for participants to exchange their opinions freely in the bottom-up organizational structure. We find great value in the current position of GAC, thus it should not be transformed to take on any oversight functions.

3. Should the GAC be replaced by another body and what functions should such a body take on?

The answer is “No”, since the answer to the question 2 is no and we think GAC functions well under current arrangements.

4. Should any post 2006 governmental oversight be exercised within the UN framework?

Yes, it should be. The governmental oversight function should basically take the form of a simple audit. In an emergency situation, for example if ICANN goes into bankruptcy, it should have the role of providing financial support. However, governmental oversight should stand aside ICANN's daily operation.

Comment:

The reasons for our answer above are as follows:

It is important to review existing oversight arrangements when we evaluate the need for “new oversight function”. At present, the oversight is done by the U.S. government.

The arrangements are:

- (1) to mandate ICANN to submit annual reports, and
- (2) to examine and approve changes to the IANA database requested by ICANN.

As for (1) above, the annual reports ensure ICANN's transparency. So it is very important that the “new oversight function” does the same. However, it is not appropriate to give more than a simple audit function to the “new oversight arrangements”. ICANN has been working well because the U.S. government has not micro-managed it or its consensus development processes, so we definitely need to keep this situation.

As for (2) above, recurrent delay in changing IANA database was not appreciated. Moreover, based on disclosed information, it is our understanding that the U.S. government has not declined nor asked for any revision to any request ICANN has made for changes to the IANA database. Therefore, this function should be abandoned in the “new oversight arrangements” and the responsibility should be ICANN's alone.

In addition to the arrangements we have mentioned, we would like to point out two additional roles that the U.S. government takes currently:

One is that ICANN is protected from legal actions taken under U.S. Antitrust Law, because ICANN is formally operated under the contract with the U.S. government. Similar safeguards should be ensured in the future by any “new oversight arrangements” carried out under a U.N. framework.

Under current arrangements, the U.S. government must support ICANN practically if ICANN goes into bankruptcy, since the U.S. government claims that it has the right to manage the Internet. So the “new oversight arrangements” should secure this role as well.