

INTERNET SCENARIOS

What will the global internet governance ecosystem look like by the end of this year? **WOLFGANG KLEINWÄCHTER** plots the scenarios – and the complexity

First, the worst case scenario: the internet gets more and more fragmented and renationalised. A growing number of governments start to define a 'national internet segment' and develop policies to surveil, censor and control access to and use of the internet. National firewalls will separate the domestic from the global internet and an exit and entrance regime into networks is introduced where users need passwords, handed out by governmental authorities on an annual basis, to go from one domain to another. Political battles among governments over critical internet resources, cybersecurity and human rights will dominate international discussions, no global agreement can be reached, the voice of non-governmental stakeholders is ignored and the mandate of the Internet Governance Forum (IGF) is not renewed.

But in the best case scenario we will have a more secure internet with more freedoms, more privacy and more involved stakeholders that enhance their cooperation on an equal footing in a growing global internet governance ecosystem. Surveillance is put under the rule of law and restricted on the basis of proportionality to cases where clear evidence is

available for illegal activities. The next billion internet users will go online. We will see a new wave of innovative services and applications where objects are linked to the internet, creating new market opportunities, jobs and spaces for all kind of commercial, cultural and

social activities, improving the quality of life of billions of users around the globe.

Between the two scenarios 2014 could also become just another year in stumbling forward, as the former US president Bill Clinton has once described internet governance. We will see hot political debates with numerous papers and controversial proposals but little outcome. Some small steps could be taken such as the successful start of some new top level domains, some arrangements on confidence building measures to enhance cybersecurity, or a global agreement on some high level non-binding basic principles for internet policymaking. But a lot of other open and orphan issues under discussion will remain unresolved and postponed to 2015.

Important will be how the numerous governmental and non-governmental actors understand the nature of the complexity of internet governance. Already the terminology 'internet

governance ecosystem' signals that the internet is not just another policy issue which – after the revelations of Edward Snowden – has been pushed from low to high priority. The problem is much more complex.

The internet is not a 'single issue' that needs to be regulated in one way or another. The internet, as it has evolved over half of a century, has penetrated all areas of the political, economic, cultural and social life around the globe. As a result we see a very dynamic process where – from a political-legal perspective – a broad variety of different regulatory, co-regulatory or self-regulatory regimes emerge, co-exist and complement or conflict each other. The system as a whole is decentralised, diversified and has no central authority. However, within the various subsystems there is a very broad variety of different sub-mechanisms, which range from hierarchical structures under single or inter-governmental control to non-hierarchical networks based on self-regulatory mechanisms by non-governmental groups, with a wide range of co-regulatory arrangements in between, where affected and concerned stakeholders from governments, private sector, civil society and technical communities are working hand in hand.

There is no one size fits all solution. The specific form of each subsystem has to be designed according to the very specific needs and nature of the individual issue. In such a mechanism, traditional national legislation and intergovernmental agreements continue to play a role but have to be embedded into the broader multi-stakeholder environment, while new emerging mechanisms have to recognise existing frameworks and regulations on various levels. The 'do no harm' principle becomes more important than ever. It means that whatever a governmental or non-governmental player will do in the internet has to take into consideration its direct or indirect consequences for not-involved third parties as well as the unintended side-effects for the system as a whole.

Such a competitive coexistence of rather different regimes and mechanisms creates opportunities but also has risks. There are great opportunities for new mechanisms, platforms and services to bring more dynamic into political strategies, social actions and market developments. This competitive coexistence can stimulate innovation, promote job creation, enlarge all kinds of cultural activities and broaden the use of individual freedoms by the public at large both in developed and developing nations. But there is also a risk that differences between regimes and systems create controversies and produce major



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conflicts, which includes the threat to turn down innovation, hamper sustainable development, reduce individual freedoms and pollute the ecosystem in a way that parts of it will be damaged or destroyed.

The challenge is to find flexible mechanisms for enhanced communication and coordination as well as formal and informal collaboration among the various players at the different layers to allow all stakeholders to play their respective roles on an equal footing without discrimination, in an open and transparent way.

NEGOTIATION CHANNELS

In 2014 the discussion on how to manage the internet governance ecosystem will take place mainly in three channels, which are interlinked.

The first is the governmental channel:

■ This started with the UNCSTD Working Group on Enhanced Cooperation (WGEC) in Geneva in February, which will produce recommendations which will go to the UNCSTD meeting in May 2014. This meeting will draft a resolution for the Economic and Social Council meeting in July 2014 and prepare the discussion for the 69th UN General Assembly in the autumn in New York. The UN General Assembly will then decide about the renewal of the IGF mandate, the World Summit on the Information Society (WSIS) follow-up and the establishment of a possible new mechanism for enhanced cooperation.

■ The ITU will have its World Telecommunication Development Conference (WTDC) in April in Dubai, followed by the WSIS+10 high level meeting. The results of both meetings will feed the ITU Plenipotentiary Conference in Busan in November 2014. In Busan we will see whether the group of governments, which during the WCIT in December 2012 in Dubai wanted to extend the mandate of the ITU to the internet and called for the legal recognition of a 'national internet segment', will try to introduce similar language into the negotiations around the two legally binding ITU instruments, the ITU Constitution and the ITU Convention.

■ The UN General Assembly, which starts at the end of September 2014 in New York, will discuss internet issues in three committees: negotiating a resolution on cybersecurity and confidence building measures; negotiating the WSIS follow-up and the renewal of the IGF; and privacy, surveillance and human rights.

■ Additionally there are the free trade negotiations between the US and its partners in the Pacific and Europe in the Transatlantic Trade and Investment Partnership (TTIP) and the Trans-Pacific Partnership (TPP) where internet issues related to intellectual property and data protection are part of the packages. WTO, WIPO, UNESCO, UNCITRAL and other intergovernmental organisations will continue to discuss internet issues in their fields of competence. Regional organisations such as the Council of Europe, OECD and OSCE have internet governance now as a high priority on agendas. And it would be not a surprise if the summits of the G8 and the G20 will put internet issues on their agendas in Sochi in June and Brisbane in October 2014.

The second channel comprises mainly the



Can the world's stakeholders pull together in internet governance?

so-called I*star organisations, which manage the critical internet resources such as internet protocols, domain names, IP addresses and root servers:

■ ICANN, now busy with the implementation of its new gTLD program, has three meetings in Singapore (March 2014), London (June 2014) and Los Angeles (October 2014). The globalisation of ICANN and IANA will be a big issue that is also of central interest for governments. The London meeting is linked to the second Internet User Summit, the At Large Summit (ATLAS II), which will bring hundreds of internet user organisations from all over the world together.

■ IETF, the main platform for the development of internet protocols, also has three meetings in London (March), Toronto (July) and Honolulu (November 2014). Since its last meeting the IETF has made cybersecurity a priority.

■ The regional internet registries – RIPE NCC, ARIN, APNIC, AFRINIC, LACNIC that manage the IP numbering system – have nearly a dozen meetings covering all regions of the world. As we know, the IP address is still the main identifier in the cyberspace and of key interest for governments. And there are more technical expert meetings by ISOC, IEEE, W3C, APRICOT, APAN, MENOG and many others.

The third channel is multi-stakeholder:

■ The April conference in Brazil – the Global Multi-stakeholder Meeting on the Future of Internet Governance – could become a landmark meeting. Initiated by the president of an emerging internet world power – Brazil's Dilma Rousseff – and the CEO of a private corporation – Fadi Chehadé from ICANN – it could show how to achieve outcomes based on joint activities by governmental and non-governmental stakeholders on an equal footing. The conference could adopt two documents. First, a 'declaration on internet governance principles' (based on the existing two dozen declarations of principles from previous years by the G8, OECD, Council of Europe etc.) The second document could be an 'internet governance roadmap', something like a 'to-do list' for the coming years. It remains to be seen what role in this process the new multi-stakeholder '/1net' coalition will play.

■ The 9th IGF in Istanbul in September 2014 could also contribute to a more output-oriented discussion. This could include the establishment of new

multi-stakeholder mechanisms or bodies, where needed. One of the proposals is to enhance the rather flat IGF structure by launching a Multi-stakeholder Internet Policy Council (MIPOC) under the IGF mandate, which could complement the existing IGF programme committee, the Multi-stakeholder Advisory Group (MAG), and the IGF secretariat. MIPOC could become the body where all stakeholders find out – on an equal footing – how to deal with unresolved and new issues which will come with cloud computing, the internet of things and threats against human rights and security in cyberspace. There will be numerous regional and national IGFs around the globe, including the 7th European Dialogue on Internet Governance (EuroDIG) in Berlin (June 2014).

All three channels are more or less interlinked, although they are different by nature and have different approaches and practice on what ‘multi-stakeholderism’ means for them.

We also know from the past that in intergovernmental organisations the same government – as long as issues were negotiated on a lower level – could easily have different positions because different ministries have different approaches. To take one example: a ministry of the interior wants more security exceptions in privacy regulations, but a ministry of justice is more in favour of strong data protection. Governmental representatives in ICANN’s government advisory committee (GAC) come mainly from the ministry of economics or the foreign ministry and not all GAC members have consulted with all their ministries at home before they start working on advice on how to include the right language in the Registrar Accreditation Agreements (RAA), where the handling of the WHOIS database raises highly sensitive security and privacy issues. Some GAC members have been more on the side of their national data protection commissioner, others on the side of the national law enforcement authorities. It has been extremely difficult to reach a balanced solution without undermining the functioning of the domain name system.

This simple case demonstrates the complexity. Regulations in a single subsystem can have unintended affects to the system as a whole, which will also affect existing national and international legislation. With the further growing complexity of the ecosystem this could become an even bigger problem. Who can still have an overview about all the things going on at the same time in different circles and corners of the globe?

Following the substance produced by the chain of the

THE ILVES COMMISSION

An important role for further enlightenment could be played by the new High Level Panel on Global Internet Cooperation and Governance Mechanisms, chaired by the President of Estonia, Toomas Ilves. It is a great opportunity – and is the right committee with the right people at the right time. Originally initiated by ICANN it is now a more independent group supported by the World Economic Forum (WEF) in Davos and the Annenberg Foundation in California, with liaison with the Global Commission on Internet Governance (GCIIG), which was announced at Davos.

Its 22 members represent a unique set of wisdom, knowledge and perspectives at the highest level. Looking back, never before has such a mixed group worked together and discussed the future of the internet. The first meeting in December 2013 in London was very encouraging. This group does not fear to touch hot potatoes, there are no taboos and these are people full of imagination and creativity. Their report, expected for mid-May 2014, could help to clear the air and bring more light into the still undiscovered areas of borderless and limitless cyberspace.

numerous internet governance meetings is a big problem not only for governments but also for all the other stakeholders. However, players in this internet world have to know what happens in the whole system. This is a precondition to understanding their own role in this complex and interdependent mechanism and to avoid making decisions with good intentions but bad consequences.

MULTILATERALISM VS MULTI-STAKEHOLDERISM

Whatever happens in 2014, it is important to avoid a fight between the ‘multilateralists’ and the ‘multi-stakeholderists’. This would end in a senseless confrontational approach and could become very counterproductive for the world. There is no such contradiction between the two camps because the two concepts are complementary. The discussion of the future of internet governance should not become a boxing match where the ‘blue corner’ (some governments) fights the ‘red corner’ (a rainbow coalition). It is not ‘right vs left’, ‘conservatives vs progressives’, ‘East vs West’ or ‘North vs South’.

The emergence of the multi-stakeholder model is the result of an unstoppable growing complexity of societies. There is no alternative than to move from the lower level of policymaking to a higher level where one has to deal with many more players, layers and interdependent issues.

The Brazil conference and the Ilves report (see panel) should make clear that we must move from the intergovernmental system of the 20th century into a multi-stakeholder system of the 21st century. National sovereignty continues to exist, but the execution of sovereignty is more complex and needs additional innovative procedures, deeper interactions, collaborative mechanisms and an understanding of a shared responsibility for the common good of mankind.

Problems cannot be settled anymore by a one size fits all approach by one single committee, one killing switch, one telephone number, one absolute king, one president or one internet czar. It needs an approach where on a case by case basis the needed governance mechanism has to be designed individually according to the specific nature of the problem under discussion.

It would be helpful if the Brazil conference could agree on a number of high-level basic principles for internet governance. There is no need to reinvent the wheel. Many declarations on internet governance principles have been adopted in past years, and all those documents have been discussed in detail during the IGFs in Nairobi (2011), Baku (2012) and Bali (2013). A rough analysis shows that more than 80% of the principles in those documents are the same. The problem is that all those documents are supported by only one stakeholder group or they are limited in their geographical scope. The opportunity of the Brazil conference is to ‘globalise’ and ‘multi-stakeholderise’ these principles.

As long as the principles are high level, general and legally non-binding there should be a realistic chance to reach rough consensus among governments, the private sector, the technical community and civil society. Such a framework of commitment could become an important reference document for future political internet conflicts, similar to the Universal Declaration of Human Rights from 1948, which is also a legally non-binding document of very high level principles.

The good thing for 2014 is that all cards are now on the table. The open question is how to play this game further out.

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