High Level Session of the UN Internet Governance Forum (IGF) 2017

Monday, 18 December 2017, 4pm – 6pm
Palais des Nations, Geneva, Switzerland

Title: “Shaping our future digital global governance”

Digitisation provides unique opportunities for innovation, growth and development. But in recent times, the Internet has also been associated with growing challenges that call for a better coordinated global digital governance system. Pooling the strengths of different stakeholders – governments, private sector, technical community and civil society – is essential in any such effort. This session aims to discuss the pressing matters relating to digitisation and to the future evolution of the global digital governance framework. Potential gaps in the current digital governance system would be part of the conversation and suggestions for improving global cooperation among all stakeholders can be developed.

Policy questions:
- What is your vision for the global digital governance in 10 years?
- Where do you see the main challenges?
- Which opportunities could be seized?
- What are the roles and responsibilities of the different stakeholders?

BRIEFING NOTE

Digitisation provides unique opportunities for innovation and growth, from economic, social, and development perspectives. The Internet also provides for new ways to exercise human rights and is essential for the implementation and monitoring of the sustainable development goals (SDGs). Emerging technologies and their application promise to push the boundaries of growth further.

At a time where the distinction between digital and analogue is increasingly blurred and our societies and economies undergo rapid changes, a growing number of stakeholders call not only for a reconsideration of the very object of governance, but increasingly also for a reconsideration of the institutional framework that should allow us to cope with this evolution. As the debates about the Internet of things (IoT) and the emergence of artificial intelligence (AI) show, multistakeholder fora – such as the Internet Governance Forum (IGF), where open discussions can be held by decision-makers from different sectors – will become key to common policy-shaping in emerging fields.

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1 This Briefing Note has been developed by the Geneva Internet Platform (GIP). Its content does not necessarily reflect the views of the Swiss Government.
‘WHY’: Seizing opportunities and minimizing risks…

With the opportunities offered by the Internet and other digital technologies growing, some challenges also become more and more obvious. When it comes to the democratic debates and decision-making processes, for example, digital technologies can facilitate communication and exchange of information, enhance the efficiency of public services, and contribute to more inclusive policy-making. But they can also be misused in various ways, such as through spreading false or misleading information and propaganda. Although not a new phenomenon, this has proliferated with the growth of social media, raising concerns among governments, intermediaries, and end users.

Likewise, digital technologies may not only have positive but also negative impacts on people’s rights to exercise their human rights. Some online content policies by governments or service providers threaten to affect people’s right to freedom of expression online. Some companies’ business models centred around the use and processing of users’ data, and the collecting and processing of personal data by governmental agencies raise serious privacy and data protection concerns.

With citizens, businesses and governments relying more and more on Internet and digital services, cybercrime and cyberattacks are increasingly perceived as major risks to the functioning of our societies. Criminals are using more sophisticated ways of conducting attacks, that are becoming increasingly larger in scale, widening the gap between criminals and the ability of law enforcement to catch up. Moreover, terrorists are using the Internet for propaganda purposes and to spread and organize violent extremism, which in turn is prompting some governments to require Internet service providers, in particular social media operators, to monitor content disseminated on their platforms.

Emerging technology carries its own fair of challenges. We hear more and more about connected smart devices being used in cyberattacks, and even pioneers in artificial intelligence warn of the risk that AI may be used for the development of lethal autonomous weapons. Also, there is an intense debate about the effect of new technologies on our labour markets: While some warn that automation is rendering millions of jobs obsolete, others refer to the fact that the digital economy has already generated many new jobs and believe that there will be more new jobs than traditional jobs being lost. Trade unions criticize that these new jobs often do not offer the same protection and stability as more traditional jobs. While some believe that the technological development may be an opportunity for leapfrogging, others fear that the digital dividends accruing from the impact of technology are not being fairly distributed and will lead to deepening existing digital divides.

In order to best seize the opportunities of digital technologies and to minimize the risks, more and more stakeholders call for new governance solutions that can pool together the strengths of the digital actors, and capitalise on experiences from other sectors (including from non-technical sectors such as e.g. those from the humanitarian field).

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2 These and other similar issues related to the impact of digitalisation on politics, public trust, and democracy will be discussed at another IGF 2017 high-level session, to be held on Tuesday, 19th December.
'WHAT': Current governance fora and processes

Digital governance does not happen in a vacuum. Many building blocks for digital governance exist. Existing international law applies online, as declared in the 2015 Report of the UN Government Group of Experts. Resolutions from the UN General Assembly and the UN Human Rights Council, and similar documents adopted within regional organisations such as the Council of Europe, have established the principle that the same human rights that people enjoy offline must also be protected online. The UN has addressed digital realm in comprehensive way during the World Summit on the Information Society (WSIS) held in Geneva (2003) and Tunis (2005).

In addition, new governance approaches and mechanism have been introduced in order to reflect specificities of the digital field. For example, the multistakeholder approach has been used in order to engage a wide range of actors involved in developing and using the Internet, including governments, business, the technical community and civil society.

Traditional policy-making processes

Traditionally, public policy issues are addressed in governmental or multilateral frameworks. For many governments, this is also valid in the case of digital policy issues. The Tunis Agenda for the Information Society, adopted at the end of the second phase of the World Summit on the Information Society (WSIS), noted that ‘policy authority for Internet-related public policy issues is the sovereign right of States. They have rights and responsibilities for international Internet-related public policy issues’. And indeed, digital policy issues are being discussed in a number of multilateral fora.

In 2010, the International Telecommunication Union (ITU) established a Council Working Group on International Internet-related Public Policy Issues, tasked with identifying, studying, and developing matters related to international Internet-related public policy issues. Also other specialized UN agencies like UNESCO, WIPO or UPU and other intergovernmental organisations like OECD or the Council of Europe have been working on internet-related public policy issues. Since the WSIS Summits, many intergovernmental organisations have undertaken steps to facilitate participation of non-governmental stakeholders in their activities, while keeping the decision-making power limited to governments.

Experience has shown, that in some areas of digital policy effective regulatory mechanisms have been put in place, while in other areas similar attempts have not been as successful.

As a recent study undertaken for the Internet Society highlighted, one of the main limitations of traditional legislative and regulatory processes in dealing with the challenges posed by digitalisation is the lag between policymaking and technological developments. Whereas developments move at a fast pace, the traditional regulatory or legislative processes, at national or international level, are typically slower. Moreover, governments alone cannot be expected to have or come up with solutions to the multifaceted digital policy challenges.
The challenges and conflicts of increasingly cross-border Internet issues, contrasted with rising nationalist or anti-globalisation policies and digital sovereignty claims, further undermine the ability to resolve issues in traditional international processes. For example, in cross-border criminal investigations, the system of Mutual Legal Assistance Treaties (agreements among countries which commit to assist one another in investigations and prosecutions) is extremely slow.

At United Nations (UN) level, discussions on cybersecurity issues have been taking place as early as 1998, when a draft resolution on developments in the field of information and telecommunications in the context of information security was introduced, and adopted by the UN General Assembly (UNGA). However, the practical effect of this and other similar UN GA resolutions in addressing cybersecurity concerns has been rather limited. The UN-mandated working group in the field of information security – the Group of Governmental Experts (UN GGE) is credited with two major achievements - outlining the global cybersecurity agenda, and introducing the principle that international law applies to the digital space. The recent fifth meeting, however, failed to reach consensus over its final report.

The experience in other areas – such as child online protection – shows that certain regulatory processes could be effective. The Council of Europe Convention on Cybercrime’s provisions on offences related to child sexual abuse material constitute one example in this regard. In addition, the private sector’s self-regulatory measures on combating abusive content are also exemplary.

**Multistakeholder experiences**

‘Internet governance’ was officially placed on diplomatic agendas with the 2003–2005 WSIS. Initially, several countries were in favour of a private-sector led model of Internet governance, while others argued that government should be in charge, in the framework of a new or already existing intergovernmental body. These differing views led to the creation of a multistakeholder Working Group on Internet Governance (WGG), which came up with a working definition of Internet governance: ‘the development and application by governments, the private sector, and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programs that shape the evolution and use of the Internet’. The definition became part of the Tunis Agenda for the Information Society (2005).

According to this definition, there is no single organisation in charge of ‘governing the Internet’, but the various stakeholders – governments, intergovernmental organisations, the private sector, the technical community, and civil society – share roles and responsibilities in shaping the ‘evolution and use’ of the Internet. This multistakeholder approach to Internet governance has grown in understanding and acceptance over the past several years. This form of involving stakeholders has been seen as a necessity in the governance of everything digital and is applied in different fashions across the board in institutions such as the Internet Corporation for Assigned Names and Numbers (ICANN), the Internet Engineering Task Force (IETF), and the IGF. The process set up by the United States government and ICANN in 2014 to 2016 to terminate the US government’s oversight over the IANA functions (“IANA stewardship transition”) is seen by many as a good example of the multistakeholder model at work.
The IGF - whose mandate is to ‘discuss public policy issues related to key elements of Internet governance in order to foster the sustainability, robustness, security, stability and development of the Internet’ - is one of the main fora where a multistakeholder approach with all stakeholders on an equal footing can be seen in action. The IGF has been holding annual meetings since 2006, bringing together representatives of all stakeholder groups to openly discuss Internet governance and digital policy issues, based on a bottom-up developed agenda. In addition to the annual meetings, the IGF has also set up so-called ‘intersessional activities’, thus engaging the community in more intensive and output oriented work, including best practice forums, dynamic coalitions, and a multi-year project on Policy options for connecting and enabling the next billion(s).

Over the years, the IGF has served effectively as a global forum for policy discussions. Repeatedly, suggestions have been made by some stakeholders for the IGF to go beyond being a discussion forum, to a decision-making body. While there has been no consensus on such a profound change of the IGF’s mandate, the IGF is subject to evolution. A number of recommendations in this regard were made in 2012 by the Commission on Science and Technology for Development (CSTD)’s Working Group on Improvements to the IGF. Some of these recommendations touch upon issues such as improving the quality and format of IGF outcomes (while maintaining the IGF as a non-binding and non-decision-making forum), broadening participation and capacity building, and linking the IGF to other Internet governance-related entities. In December 2015, the outcome document of the high-level meeting of the UNGA on the overall review of the implementation or the WSIS outcomes (WSIS+10 resolution) called for an accelerated implementation of these recommendations.

Beyond the IGF, the current debate on the multistakeholder approach in digital governance is largely focused on how to expand or improve the existing multistakeholder processes themselves. While some stakeholders tend to ideologize the model per se irrespective of how it is set up, it may be said that multistakeholder models – if set up in a way that they allow an inclusive and balanced participation of all relevant stakeholders – can actually produce significant results. The IANA stewardship transition is considered to be an example of an effective multistakeholder process. The multistakeholder approach was also applied by the Global Multistakeholder Meeting on the Future of Internet Governance, also known as the NETmundial Conference (Sao Paulo, April 2014).

Actually, in many areas, it is generally accepted that no one stakeholder can resolve certain issues on its own. This is especially evident for cybersecurity issues: governments, service providers and users need to cooperate to reach effective protective solutions. For example, in the past few months, the private industry has been collaborating closely with the G7-governments on combatting violent extremism, and on addressing the issue of manipulation of public opinion. In 2017 the private sector was invited for the first time to join a G7 meeting which had, as a special focus, the fight against violent extremism.
‘HOW’: Proposed governance solutions

The current governance structures and models may not be sufficient to successfully cope with the challenges of digitalization. In particular, they are considered by many not sufficient enough to deal with the new type of challenges which will be posed by the introduction of artificial intelligence, big data, and Internet of Things, among others. There have been various efforts undertaken in the past years, all with a view to improving global cooperation among stakeholders.

Developing Internet governance principles

Since the adoption of the Tunis Agenda, the IGF has acted as the main forum for discussing public policy issues related to the Internet, in addition to several initiatives that focused on the development of Internet governance principles to guide the evolution of the Internet and to address various policy issues.

In 2006, the Association for Progressive Communication issued an Internet Rights Charter, which, among others, outlined a series of principles for the governance of the Internet, such as democratic oversight, transparency and accessibility, and decentralisation. In the same year, at the first IGF in Athens, a dynamic coalition was formed with a view to create an Internet Bill of Rights. In the following years, this dynamic coalition developed into a multistakeholder coalition, the “Internet rights and principles dynamic coalition”, that produced its first Internet Rights and Principles Charter in 2011, which has since then been developed further and translated into several languages.

In 2009, the Council of Europe started to work on elaborating a set of Internet Governance Principles based on its core values of human rights, rule of law and democracy. In 2011, a declaration containing 10 Internet Governance Principles providing the social, economic and human context for the Council’s standard-setting, monitoring and cooperation activities in the field of Internet governance was adopted by its 47 member states in 2011.

Later in the same year, the Organisation for Economic Co-operation and Development (OECD) adopted a recommendation on Principles for Internet Policy Making, ‘aimed to preserve the fundamental open nature of the Internet while protecting privacy, security, children online, intellectual property, and the free flow of information, [and to] strengthen international co-operation and support a flexible, multi-stakeholder approach to Internet policy making, rather than an international regulatory approach’.

The G7 and G20 have adopted various declarations. The G7 Declaration on Responsible States’ Behaviour in Cyberspace in 2017 builds on the Principles and Actions on Cyber adopted in Ise-Shima in 2016. The G20 communiqués have affirmed that no country should conduct or support ICT-enabled theft of intellectual property, and stressed that the potential of the digital economy should be unleashed.
The Global Conference on CyberSpace (GCCS) - also known as the ‘London Process’ - has been advancing broad range of principles, related to economic growth and development, social and cultural benefits, Internet governance, cybersecurity and cybercrime, international peace and security, freedom and privacy, and capacity building, particularly through the Chair's Statement from London, the Seoul Framework for and Commitment to Open and Secure Cyberspace, and the Chair's Statement from The Hague.

Emerging from the GCCS, the Global Forum on Cyber Expertise (GFCE) has advanced principles mainly related to cybersecurity and cyber capacity building. The documents - Global Agenda for Cyber Capacity Building, Global Good Practices of its Initiatives, and particularly the Delhi Communiqué on a GFCE Global Agenda for Cyber Capacity Building - promote cooperation and set principles related to cyber capacity building: inclusive partnerships and shared responsibility, ownership, sustainability, and trust, transparency and accountability.

In the 2014 Global Multistakeholder Meeting on the Future of Internet Governance (NETmundial) different stakeholders acting on an equal footing and using ‘rough consensus’ developed the NETmundial Multistakeholder Statement, consisting of principles and practical proposals for enhancement to existing mechanisms for global Internet governance, proposing Internet governance principles aimed at contributing to ‘an inclusive, multistakeholder, effective, legitimate, and evolving Internet governance framework’, and covering issues such as human rights, cultural and linguistic diversity, security, stability, and resilience, and openness and inclusiveness.

The World Internet Conference, held since 2014 in Wuzhen, China, has been promoting Internet principles with a focus on cybersecurity and digital economy. The Wuzhen Initiative, proposed in 2015, called for promoting Internet deployment and development, fostering cultural diversity in cyberspace, better sharing of the fruits from Internet development, ensuring peace and security in cyberspace, and improving global Internet governance.

The Global Commission on Internet Governance issued a set of recommendations on the future of the Internet and Internet policies, in its 2016 One Internet report. The report noted, among others, that, in order ‘to realise its full potential, the Internet of the future will need to be open, secure, trustworthy, and accessible to all’, and that ‘distributed governance can preserve open and stable Internet infrastructure’.

In October 2017, the United Nations Educational, Scientific and Cultural Organization (UNESCO) launched a study titled ‘What if we all governed the Internet? Advancing multistakeholder participation in Internet governance’, which concluded that ‘the multistakeholder modality remains relevant and that it adds substantial value to Internet governance, but also that it should not be taken to be a uniform model - let alone an ideology’.

These are some of the main attempts to establish widely accepted principles for the governance of the Internet. These initiatives have certain elements in common, and they all seem to support, in one form or another, a multistakeholder governance approach. Although, they have not yet evolved into ‘universally accepted principles’, some of these experiences have shown that it is possible to work on a basis of stakeholders being on an equal footing.
**The private sector asks for cyber norms**

Different actors from the private sector have proposed new cyber norms to protect cyberspace, in particular this year. This shows that at least some commercial actors are willing to step into a standard-setting role, which was previously mainly the ambit of governments.

- **Microsoft’s proposal**

In 2017, Microsoft’s call for a Digital Geneva Convention brought into focus the idea that, in the search for a more secure and stable Internet, Internet companies need to engage with governments and work together on reasonable policy arrangements. The company continued to shape its proposal by suggesting clauses which should form part of the convention, a common set of principles and behaviours for the tech sector to help protect civilians in cyberspace, and the setting up of an independent attribution organisation to identify wrongdoing.

A key question is how to implement such an agreement. One analogy is with the International Committee of the Red Cross (ICRC), the pillar organisation of the Red Cross movement and implementer of the Geneva Conventions. Other parts of the Red Cross movement, such as the national organisations that have an auxiliary role to governments, could also provide some answers. While not being part of government structures, such organisations are legally recognised by governments as public actors in the humanitarian field. Indeed, more can be learned from the humanitarian field, and from similar processes that inspired Microsoft’s proposal.

- **Google’s proposal**

Given that the industry is under increasing pressure by governments to provide digital information for criminal investigations and anti-terrorist activities, a proposal was made by Google in 2017, which proposed new norms for providing digital evidence to foreign governments. Google’s proposal would allow law enforcement to request digital evidence directly from Internet companies. This would work only between countries that adhere to privacy, human rights, and due process standards.

- **Alibaba’s proposal**

Alibaba’s proposal for an Electronic World Trade Platform (eWTP) has a strong policy aspect, as it is aimed at creating a global policy ecosystem that would support e-commerce in particular of small and micro enterprises. eWTP has been promoted on various events starting with G20 summit in 2015, WTO Forum and other policy events.
Towards a new social contract?

Although the future of digital governance cannot be fully predicted, the challenges it faces are becoming inherently tied to the wider socio-political and economic developments occurring around the globe, and, particularly, to the rapid developments in technology in a world with increasingly blurred boundaries between the digital and the analogue.

As a solution to the emerging challenges of the governance processes, ideas about a new form of social contract are also gaining traction. This idea is understood as a common understanding on core principles related to the future digital development shared between governments, global institutions, business, and civil society, both locally and globally. In this context, in 2014, Tim Berners-Lee, who invented the world wide web at the CERN in Geneva in 1989, called for online ‘Magna Carta’ in order to protect the independence of the Internet and the rights of the Internet users. The more we depend on the Internet, the stronger are the requests to enshrine core Internet principles.

New frameworks for dealing with emerging issues?

As technologies evolve at a fast pace, they have implications in the political and policy spheres. For example, automation and AI impact, among others, privacy, jobs, security, and overall ethics. While the IGF serves as a discussion forum tackling these issues as well, new questions emerge. Do emerging issues require new institutional frameworks to deal with them in a structured way? Or can they be addressed efficiently in the framework of current governance structures (including both existing institutions and existing regulations)? With the increasing digital/analogue convergence, should we start thinking of some forms of meta-coordination or clearinghouse functions that could be able to address emerging issues?

The challenges we are experiencing today call for a digital governance system that is able to tackle the challenges effectively. New governance solutions should pool together the strengths of the digital actors, and capitalise on experiences from other sectors.
Context for the policy questions to be discussed in this High Level Session

What is your vision for the global digital governance in 10 years?

More than 10 years after the adoption of the Tunis Agenda, there are still divergent views as to what is the 'ideal' digital governance framework. These views continue to range from having no institutional framework at all (e.g. John Perry Barlow’s Declaration of the Independence of Cyberspace), to either multilateral and intergovernmental models, or multistakeholder models of governance. Will any of these views prevail in the next 10 years? Or should we rather try to focus on combined models, in which some issues are better dealt with by certain stakeholder groups (like private sector or the technical community), while others are better suited for multistakeholder approaches?

Where do you see the main challenges?

William Gibson, a well-known cyber-author, once said ‘Technologies are morally neutral until we apply them’. The Internet is no exception. It shapes our reality with numerous ethical and policy ramifications. The overarching question is how to maximise the opportunities that the Internet brings, while addressing the challenges. In striking right balances, digital governance must ensure that future technologies serve the core values of humanity. This relates in particular to ethical and policy challenges posed by AI, big data, and other advanced technologies. In many cases, there is a need for awareness building for policy makers and wider society on the impact of these technologies. There is also a need to introduce new language and concepts that reflect the challenges posed by new technologies.

Since we do not know how digital technologies will evolve, we might be tempted to adopt a ‘wait-and-see’ approach when it comes to addressing their impact on the society at large. But is this approach appropriate, or does it come with risks? There are concerns that new technologies may have negative effects on core human rights and human dignity. In this context, should digital policy try to introduce some precautionary actions, analogous to those in the areas of climate change?

Which opportunities could be seized?

Digitization presents us with a wealth of opportunities. Are the current governance settings fit for purpose for seizing them? What priorities should be set at the global level? And how? If we get it right, digital governance will maximise the opportunities that the Internet creates, and minimise the risks. A successful digital governance could contribute to individual self-realisation and prosperous societies worldwide. For example, digital tools can facilitate bottom-up governance, higher transparency, and shift towards collaborative and people-centred governance.
While digital technologies offer these possibilities, a more balanced and inclusive governance will not happen by itself. It requires informed, constant, and inclusive action from all major actors. In our journey towards balanced, pro-innovation, and people-centred governance, we should build on successful experiences so far and learn from the mistakes of the past. What can we learn from these models? And how can we use the lessons learnt for the future global digital governance?

**What are the roles and responsibilities of the different stakeholders?**

In 2005, the Tunis Agenda stated that the governance of the Internet should be ‘based on the full participation of all stakeholders, from both developed and developing countries, within their respective roles and responsibilities’. During the years that followed, digital policy issues have been addressed within technical organisations (through standards), by governments (through national legislation) and intergovernmental organisations, by private sector entities (through self-regulation), and by civil society organisations (through their advocacy campaigns). But is there a clear line delimiting the roles and responsibilities of these stakeholders? If not, should there be one?

With the emergence of the fourth industrial revolution and the fast-paced development of technologies like automation and AI, governance frameworks likely will need some updating. How should these updated frameworks look, and what could or should be the role of the different stakeholders? Are the governments or the intergovernmental organisations the sole responsible for dealing with issues such as the impact of digitalisation on the jobs market or the protection of human rights online? Is it realistic to expect that regulations, at national, regional, or international level can keep up with technologies? Can other stakeholders contribute to efficient governance models? If so, how they can best do this?