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## **ISRAEL**

### **COMMENTS ON THE REPORT OF THE WGIG**



## **Israel's comments on the WSIS process**

### **WSIS Implementation Mechanism – Articles 10-11, 29 to Chapter 1 of the Operational Part**

The existing and effective institutions currently administering the infrastructure of the Internet should not be tampered with, unless it is reasonably certain that the proposed changes will reinforce the stable and secure functioning of the Internet. Issues of international importance requiring global cooperation should be assessed for their potential to enhance cooperation by means of existing institutions. The global community should intervene on these issues only where it is clear that the stable and secure functioning of the Internet will not be compromised. In addition, as a matter of policy, the private sector should be recognized as the primary engine of Internet robustness and development. This role should not be superseded by governance mechanisms and institutions because these have the potential to hamper the stable and secure functioning of the Internet.

Israel would like to express its support for the suggestion made by the EU, Canada, Norway and Australia, namely that the implementation mechanism regarding the governance of Internet technology and infrastructure should remain in the hands of ICANN in association with the GAC.

Furthermore, as stated in article 13 of UNGA Resolution 57/270b, the General Assembly ".....invites the Administrator of the United Nations Development Programme, in his capacity as Chair of the United Nations Development Group, to report, on a regular basis, to the Economic and Social Council at its coordination segment, on the activities carried out by the Group relating to the integrated and coordinated implementation of the outcomes of the major United Nations conferences and summits". Israel believes that the mechanism for the follow-up of the WSIS process should be based on the procedures and institutions already agreed upon in UNGA Resolution 57/270b and that the establishment of additional, independent



institutions would impede effective follow-up by needlessly increasing costs, administration, redundant functions and competing jurisdictions.

Israel believes that it is in the best interests of all involved that the implementation mechanism be one that is not exclusive to governments, but includes all stakeholders – Governments, Private Sector, NGO's and Academia. Thus we will insure that the Internet remains a tool for free and global information

Israel believes that it is possible to meet the reasonable concerns of the developing countries by giving a more significant role to the GAC or to a similar, existing forum that will be agreed upon. We believe that this will enable all governments to have a greater influence on the implementation process in those aspects relevant to public interests, and will, in turn, obviate out the need for establishing an additional, independent implementation mechanism.

### **Multi-Stakeholders**

The Internet owes its current robustness not to institutional governance, but to the good judgment and wisdom according to which the Internet was allowed to develop with a minimum of outside intervention. This was the policy followed by the National Information Infrastructure policy-makers in the United States, and which enabled the private sector and academia to contribute so successfully to the development of the Internet.

It should also be recognized that solutions to some of the existing problems that plague the Internet today might best be dealt with using technical measures developed by the private sector, either with or without supporting legal or institutional mechanisms.

This belief brings Israel to support the decision reached during the WSIS deliberations that emphasizes the importance of the including all the different stakeholders within the WSIS decision-making process and governance mechanisms. We also support the idea of establishing a forum that will expedite the ongoing exchange of views between all stakeholders.



### **Internet Governance**

Israel fully supports the definition of Internet Governance as stipulated in the WGIG report and commends the working group on the outstanding report presented to all WSIS stakeholders on July 18<sup>th</sup> 2005. We believe that a broad functional definition, such as the one suggested, should be adopted because it allows all stakeholders involved a wide scope to work and cooperate at all levels

### **Internet Governance implementation mechanism**

The Government of Israel is of the opinion that the proper mechanism for the implementation of the decisions agreed upon with regard to the subject of Internet Governance that is outlined in model no. 2, as presented in the WGIG Report, 18/7/05.

### **Public Policy Issues**

The Government of Israel would like to restate that it shares the views of the WGIG Report regarding the importance of the safety, security and stability of the Internet.

The Internet is fast becoming the “new frontier” for various groups fomenting hate, incitement and radicalization. The issues of Cyber Security and countering Cyber Terrorism will become some of the most important challenges with which the international community will have to deal with in the up coming future.

These issues have an even bigger significance in a day and age that sees the Internet as a tool that helps to spread knowledge and reduce the socio-economic gap in the world. Misuse and abuse of the Internet can bring with it a misunderstanding between societies and people that, in the end will only cause this gap to widen.

Experience taught us that given the "transboundary" features of the Internet, international collaboration, within existing and new institutional and legal structures, is vital in this new arena.

Therefore, we would like to emphasize the importance of the inclusion, in WGIG, of these different themes as stipulated below.



### Cyber-Terrorism

Clearly the Internet raises major challenges for addressing the phenomenon of terrorism and the supportive environment that allows it to spread. Unique as the Internet environment may be, Israel is firmly of the view that the counter terrorism principles acknowledged by the international community are fully applicable in this context as well. These include the recognition that "no terrorist act can be justified in any circumstances," and that such acts are "in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them" (UNGA Resolution 59/46)". Israel also considers that emphasis should be placed on the responsibility of states to confront terrorism at all fronts and thus "Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts" as well as "Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information" (UNSC Resolution 1373 (2001) )

The Secretary General's report "In Larger freedom" has put an emphasis on the need of states to commit to a comprehensive anti-terrorism strategy including as one of its central pillars: "dissuading people from resorting to terrorism or supporting it".

It is the conviction of Israel that the need to actively fight terrorism should not stop at the cyber space. This agenda should include a struggle against different groups that misuse the Internet in order to advocate terror acts all over the world.

This matter of Cyber Terrorism may, in the future, turn out to be even more complicated than it appears, due to its cross-boundary nature. This, in turn, will require close international cooperation, and this is precisely where the matter is put on the door step of the WSIS process. It is up to all stakeholders to agree on encouraging the development of an institutional structure and network for cooperation and information sharing (building upon existing institutions, and of a substantial "code of conduct" that will allow nations of the world to oversee as well as effectively deal with aspects of terrorism found in the web. This can be done by defining international



regulations and standardization for the supervision and lawful interception of hateful messages using the Internet's infrastructure. However, this will also require the creation of a forum dedicated to reinforce and strengthen international corporation and coordination in this field.

Another important item that should be taken into account, in order to guarantee that the war against terrorism in the web can be fought more efficiently, is the need to define uniform legal norms that will facilitate the prosecution of those who misuse the internet for acts related with terror.

### Anti-Semitism

In the spirit of the UNGA resolution no. 59/199, that declared "9. Recognises with deep concern the overall rise in instances of intolerance and violence directed against members of many religious communities in various parts of the world, including cases motivated by Islamophobia, anti-Semitism, and Christianophobia.", the State of Israel would like to stress the importance of the prevention of any attempts to increase religious intolerance through the internet. The world must make a great effort to prevent religious intolerance, through the some measures that were suggested above to stop terrorism

### Cyber-Crime

The State of Israel reaffirms its strong conviction that the use of the Internet to commit any sort of criminal activity should not be tolerated.

As Israel understands there already exists a wide agreement on the definition of Cyber Crime and relevant spheres of action. These include crimes committed against computers such as for instance intrusions and distribution of computer viruses; "classic" felonies which involve computers and Internet such as fraud, forgery, pedophilia etc; and computer forensics.

Israel believes that it is of the interest of the states of the world to take a firm hand against those who exploits the Internet in order to commit illegal acts, which, by their very nature, infringe the basic human rights and dignity of people the world over.

However, due to the global nature of the Internet, this task can only be completed if all states will join together and share their information regarding these cross borders



offenders This collaboration may include: close cooperation between international law enforcement agencies to ensure flow of information on real time; sharing of professional knowledge in order to expose investigators to a large number of softwares and other means of high-tech investigation tools; joint investigations to allow the freezing of digital evidences. This need for international collaboration, can be viewed as a golden opportunity to increase the role of the GAC in ICANN.

### Intellectual Property

Israel would notes that Intellectual Property Rights (IPR) have a dual role in the context of the internet society. They form the legal regime which sets up the incentives for creation and distribution of the creative content. On the other hand, the very same rules that make up the legal rights, limit the use of the content without consent of the rightholder, be they the creator or distributor of the content. The balance between these two core interests of IP policy is ever evolving.

In this context, Israel believes that the WSIS process should maintain a link with recent developments in the WIPO fora, where this balance is being reviewed.

In the specific context of standard setting and the Internet, Israel would like to underline two important points.

First, it is our opinion that internet standards that are set up to enable technical protection of content (such as Digital Rights Management infrastructure), as mentioned in the Background Report, section 162, can serve both as a opportunity and as a danger for the distribution of content on the Internet.

The opportunity is a new system of control and remuneration for use of protected content, enforced not by law, but by technology itself. The danger is over-limitation and control of protected content by rightholders. In this context we would like to point to the balance set in the European Directive 2001/29/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 22 May 2001, on the harmonization of certain aspects of copyright and related rights in the information society, in which the European legislator set limits to the digital protection systems, and mandatory public access to works, safeguarding "fair use" of works.



The second aspect relevant to standard setting is the imperative that standards should be open and non proprietary, as much as possible, in order to promote access and interoperability. This theme has enabled the internet to grow to what it has become, and any change in this area may endanger its open and free nature, and allow excessive power to private interests.

### Spam

The problem of spam is elusive, both on the technical side and the legal side, mainly due to its transboundary features. In this context, the importance of international collaboration is all the more important. Up to now, the use of technological measures to combat spam has not been satisfactory. In addition, more effective technological management of spam may have other negative implications. It seems, therefore, that legal coordination in this field is also necessary.

As the OECD task force on spam has shown, spam may prove as a dangerous barrier to internet access in developing countries, and consequently its containment should be part of the connectivity and access agenda.

Israel believes that the WSIS forum should treat spam as one of the negative phenomena of the internet, which requires coordinated international action, for the robustness of the internet. Indeed, we think there is need for international legal collaboration, alongside the technical cooperation.