Public Policy on the Internet: What is it? Who makes it?

This workshop was co-sponsored by the Internet Governance Project, the Government of France, Ian Peters and Associates and Afilias (private sector), and the Internet Governance Caucus (civil society). The panelists were:

- Olga Cavalli: Advisor of Argentina Ministry of Foreign Affairs and university professor
- Bertrand de la Chapelle: Special Envoy for the Information Society in the French Foreign and European Affairs Ministry
- Miriam Sapiro: President of Summit Strategies International and consultant, contributing on behalf of the Internet Chamber of Commerce
- Paul Twomey, Chief Executive Officer of ICANN
- Ian Peter: Management Consultant of Ian Peter Associates
- Parminder Jeet Singh: Executive Director of IT for Change, Co-coordinator of the civil society Internet Governance Caucus
- Milton Mueller: Professor at Syracuse University and Partner of the Internet Governance Project

The goal of the workshop was to initiate a constructive discussion on globally applicable principles on public policy, which form an important, albeit underdeveloped part of the Tunis Agenda. More specifically, the workshop intended to discuss the meaning of globally applicable principles on public policy in the context of the coordination and management of critical Internet resources.

The Tunis Agenda introduced globally-applicable principles on public policy issues as a new concept to the debate on Internet Governance. Traditionally, public policies are understood to relate to the national, not the transnational level. In order to make them applicable in transnational settings, it seems necessary to clarify what we mean by global public policies and also who should be responsible for them. The panelists were thus asked to address the following four questions:

- What kind of public policy principles would be globally applicable and acceptable?
- How could they be developed and implemented?
- Who would be the key actors and what are the relevant forums?
- Are there examples of public policy principles being both feasible and desirable in the context of Internet Governance?

Is global public policy just whatever governments say it is, as one of the panelists suggested? This view was criticized by another speaker who claimed that such a definition would open the door to arbitrary public interference in the Internet. Public policy principles, this panelist proposed to regard global public policy principles as a *constitutionalization of intergovernmental power* designed to avoid

abuse of freedom on the Internet. A somewhat different but similarly general definition started from the assumption that anything contested should be regarded as political. Another speaker asserted that global public policy is about global public *interests*. Various forms of multi-stakeholder governance should be brought to bear to collectively define the global public interest. High-level concepts such as the right of any actor, including individuals, to participate, in an appropriate manner in the policy process, accountability, transparency, and the capacity to redress decisions (appeal at various stages) could help shaping regimes and solve potential conflicts.

A more skeptical speaker stressed the fact that multi-stakeholder approaches don't provide any rights to citizens beyond the right to be present and thus amount to a deregulation of participation. This was echoed from a panelist who suggested that international principles often reflect the lowest common denominator, and that we therefore might expect too much from forging international public policy principles. Since notions of public policy do not map easily onto the internet, she recommended that instead of pushing for public policy principles, we should keep improving collaboration among the various groups involved. Our focus should be on norms rather than on policy principles. In her view, the IGF offers an important way to pursue such a self-governing strategy. However, another speaker cautioned against dismissing too quickly the achievements of state sovereignty in policymaking.

Examples given for global public policy principles applicable to the Internet included:
- Global interconnection (as opposed to a fragmented Internet),
- Net neutrality,
- Principles incorporated in competition and trade law,
- Development related rights. One panelist expressed the view that public policy principles shouldn't be exclusively defined in terms of negative rights since such an approach tends to wall off the distributional aspects of digital technology.

There was no agreement as to how principles of global public policy could be effectively implemented. One speaker said that we should rely more on forms of transparency and (legal) accountability than on enforcement mechanisms.

Considering the late time, the workshop was very well attended. However, despite the obvious interest in this topic, there is still a lack of solid common ground among the stakeholders that would allow for a general definition of the scope and functions of globally applicable public policy principles. The same is true the implementation and enforcement of such principles. The workshop did demonstrate though that an open debate between governments, private sector and civil society helps identifying the missing links in the concept and the specific strengths and weaknesses of the various approaches surrounding it.