# HTTP://WWW.NETDIALOGUE.ORG

### A Mechanism to Promote

### Transparency and Public Dialogue in International Net Governance

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### *Submitted to the Working Group on Internet Governance*

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## Issue and Attribution to Categories from the WGIG Inventory

This submission concerns the issue of "Applicable jurisdiction, cross border coordination" as found in the table by the Working Group on Internet Governance (WGIG), entitled *Inventory of Public Policy Issues*. The broader WGIG category in which this paper falls is labeled "Other Issues for Consideration."

In WGIG terms, the Net Dialogue website introduced here is a tool to shed light on how international organizations are dealing with the issue of "applicable jurisdiction and cross border coordination" in international Net[*] governance. At the same time, the site is a tool for promoting public dialogue on these questions. As such, the site serves as a model for how to bring international Net governance into line with some of the principles outlined in the Declaration of Principles agreed at the Geneva phase of the World Summit on the Information Society.

The website spans numerous topics considered by the Working Group on Internet Governance (WGIG). The site's classification of issues may be viewed as one level of abstraction up from WGIG's categorization, with issues grouped according to general areas of governance that regimes have dealt with throughout history. These areas include:

- Security
- Foreign Commercial Relations
- Infrastructure
- Relations Between Private Parties
- Monetary Authority
- Property
- Jurisdiction
- Relation Between Person and State

By grouping initiatives according to these traditional areas of governance, the site allows additional issues to be added over time while still maintaining a simple classification structure.

The site is meant to be a collaborative effort, growing according to inputs from all interested stakeholders.

## Strengths and Weaknesses of the Present System

The Net is becoming an increasingly controlled medium, with the trend toward regulation driven largely by parties to electronic commerce (e-commerce) demanding certainty in their dealings with one another, and by governments striving to exercise sovereignty over this space.

Control of the Internet is accomplished through technological and legal means. Software and hardware act as "code," determining what happens to information. For example, through code it is possible to monitor a person's movements, including where he goes with his cell phone, what websites he visits, what he expresses in email, and what purchases he makes using a credit card. Law in turn can dictate the choice of code, and what uses of information technology are permitted or prohibited. In this way, code and law combine to regulate the Internet.

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[*] The term "Net" here refers to both the Internet and related networks, and people's activities over them.

Governments are grappling internationally to ensure that code and law mesh to create a seamless, global Internet. The regulatory regime they are building covers all the powers traditionally exercised by a national government (e.g., powers assigned in a country's constitution), only here they are assumed at the international level.

While impressive in scope, this emerging international Net regime leaves the public ill equipped to monitor developments. For example, at present if a person wants to track Net governance, he must consult the websites of more than a dozen different intergovernmental bodies and sift through myriad web pages within those sites, as he attempts to decipher what are the actual rules being negotiated. As a result, the effects of many Net policies are appreciated only after decisions have been made, when it is too late to affect them.

Net Dialogue has been conceived with these challenges in mind.

## Actors and Forums

Experts in the technology development community, academia, the media, government, intergovernmental organizations and non-governmental organizations (NGOs) attest that it is exceedingly difficult to follow international Net governance as it occurs in diverse bodies. For example:

- *Government representatives* are often too busy carrying out their own work to follow the whole range of developments in Net policy. Large delegations may distribute work in such a way that representatives fail to update each other on their files. Meanwhile, small delegations are too thinly stretched to cover all the meetings.

- So, too, *staffs of intergovernmental organizations* have volumes of work in front of them, and tracking Net policymaking in other organizations on subjects beyond their specific duties would seem to go outside their mandate.

- *Technologists at standards-setting organizations* focus on developing solutions to technical problems. To them, "governance" entails a separate field, one which does not concern their work. However, as society increasingly demands predictability in cyberspace, governments respond with regulations and other policies that have direct bearing on technologists' work.

- Nor can *businesses* intent on the bottom line afford to employ people to monitor all Net-related activities of intergovernmental organizations. While these activities may be important, if they are not directly related to that company's current goals, shareholders do not want to bear the cost of contributing to the policy process for the general good.

- *NGOs* trying to affect specific aspects of Internet policy are on even more restricted budgets, so despite their interest in following the totality of Net decision-making, they simply cannot afford to do so.

- People in *academia* tend to treat issues in depth and do not typically spend time on research that is both wide and deep.

- The *media* know that reporting on the successive stages of policymaking does not draw large audiences, so they choose to wait until rules are ripe for decision, or until their implementation raises problems, before reporting on them.

In short, no group that is normally involved in international Net governance is taking it upon itself to follow the full range of developments.  It is not surprising, then, that there is little appreciation for the cumulative effect of these measures, and negligible public input.

A collaborative website could turn this situation around by publicizing information on international Net initiatives and allowing broad stakeholder input.

Net Dialogue seeks to demonstrate that such a site is both possible and useful.  Intended as a model for governments to replicate, the site seeks (1) to present *consolidated summaries* of Net-related treaties and guidelines by intergovernmental organizations, and (2) to offer a *forum for public discussion* of these initiatives.


## Mechanism

(a)  *Objective*

The Net Dialogue website aims to shed light on international Net governance and spur public discourse on this emerging body of regulation.  The site is intended for the benefit of people in government, international organizations, business, NGOs, academia, the media and the public at large.

With input from people who have information to share, the Net Dialogue collaborative site is envisioned as a model for governments to replicate – providing transparency and opportunities for public comment in international Net governance.

(b)  *Content*

At present, more than a dozen intergovernmental organizations are deciding rules for the networked world.  Because these bodies deal with hundreds of other topics as well, information on Net-related initiatives is lost amongst other material on their websites and in written reports.  The Net Dialogue website seeks to consolidate this information, providing people a quick survey of international Net governance in one stop.

Material on the site is organized according to three main categories:  Organizations, Initiatives, and Governance Areas.

- Each *Organization* page offers an overview of an organization and tells why it is dealing with Net policy.

- The *Initiatives* pages summarize negotiated decisions to regulate aspects of the Internet and people's activities in cyberspace.  In addition, these pages link to "Background" pages that point people to further information, such as legal mandates behind initiatives.

- The *Governance Area* pages tell how traditional questions of governance crop up in cyberspace, and how governments are grappling to derive common approaches.  The idea

here is to offer a framework for viewing the wide variety of regulatory initiatives – one that demonstrates how present day Net governance is today's response to age-old issues.

The other function of the website is to provide a forum for public discourse on the direction of Net governance. With this in mind, in 2005 the stakeholder community is invited to build out this dialogue function of the Net Dialogue site.

## Measured Against the WSIS Declaration of Principles

In sum, the Net Dialogue website introduced here may be viewed as a contribution to honor values expressed in the WSIS Declaration of Principles.

(a)     *Multilateral*

The effort outlined here is multilateral in two major respects. First, the website "maps" Net-related decisions by multilateral organizations. Second, the website aims to present a model for governments to replicate, for example by calling on multilateral institutions to publish information on Net initiatives through one easy-to-access website.

(b)     *Transparent*

At the heart of the website is a commitment to transparency. The Net Dialogue website extracts information that is normally deep within the websites of international organizations (given the multiplicity of topics they deal with), and it provides links to those sites for quick, easy access.

(c)     *Democratic*

By providing transparency, the website helps to spur government accountability to the public, one of the key components of democracy. In addition, by providing an opportunity for stakeholder input through the online forum, the site affords an avenue for public dialogue and input for policymakers.

(d)     *Capacity to address Net governance in a coordinated manner*

Net Dialogue may be viewed as exemplifying the capacity to address Net governance in a coordinated manner. The site brings together information from the wide variety of international organizations involved in Net governance. As such, it coordinates public outreach without merging organizations' competencies.

The structure of the site affords coordination as well. Initiatives are grouped according to traditional governance functions. This structure allows people to see interrelationships among the work of various bodies. So, too, the classification structure can remain intact while accommodating an ever growing set of issues.

(e)     *Multi-stakeholder approach*

The Net Dialogue website is designed with a multi-stakeholder vision. As noted in the section entitled "Actors and Forums" (above), each of the main groups involved in Net governance faces certain challenges in tracking developments and participating in the

policymaking process.  The website should serve as a tool for everyone.  Moreover, its collaborative approach – especially in the site's discussion forum – should enable a full range of viewpoints to be exchanged on initiatives in Net governance.


## Additional Comments

The Net Dialogue team wishes to thank you for reading this document and extends the invitation for you to participate at http://www.netdialogue.org.