The Internet governance regime and the national Internet trajectory of Brazil

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I.   Introduction

At the 68th United Nations General Assembly, the President of Brazil, Dilma Rousseff called into question the measures adopted by the U.S. government on global mass electronic surveillance and proposed a series of world principles for Internet governance[2]. She closed her speech on the subject by stating: "Harnessing the full potential of the Internet requires, therefore, responsible regulation, which ensures at the same time freedom of expression, security and respect for human rights".[3]

By publicly condemning the US Government's global surveillance scheme, she provided Brazil with a long sought-for opportunity to attain a leading voice in the Internet governance regime. Her words also contained an explicit commitment to the core values of Internet architecture and human rights principles. This position was immediately backed by different state and non-state actors all over the world. In particular, what is labelled the "Internet technical community" supported these concerns, which were in line with a meeting held shortly afterwards which produced a document called the "Montevideo Statement" [4]. This technical community is a loosely defined group, but highly committed to the safeguard of core Internet values and the *modus operandi* of the so called "Internet pioneers", comprised by the people and organizations that have been involved in the development of the Internet standards and protocols, and who have in many cases direct responsibility for the technical operations of the underlying names, numbers and protocol parameters. They espouse openness, innovation, end-to-end design, decentralized networking, and an un-fragmented Internet among other basic principles underlying network governance. This community found an ally in President Rousseff that voiced its' concerns regarding the trust and credibility of the Internet as an engine for democratization, growth and development.

In November 2013, the initiative which was later to be known as "NETmundial" became materialized when ICANN's CEO approached President Rousseff in Brasilia to organize a global conference to discuss and propose a way forward for Internet governance[5] based on the principles she has espoused at the UNGA. This was an alliance between one of the most powerful, visible and well-resourced technical organizations of the global Internet regime, ICANN, in charge of

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[1] Paper prepared for ISA-FLACSO, Buenos Aires, July 23-25, 2014. This work builds on the doctoral research on national frameworks for Internet governance mechanisms.

[2] 1. Cultural diversity, without the imposition of beliefs, customs and values. 2. Neutrality of the network, guided only by technical and ethical criteria, rendering it inadmissible to restrict it for political, commercial, religious or any other purposes. 3. Freedom of expression, privacy of the individual and respect for human rights. 4. Open, multilateral and democratic governance, carried out with transparency by stimulating collective creativity and the participation of society, Governments and the private sector. 5. Universality that ensures the social and human development and the construction of inclusive and non-discriminatory societies.

[3] Dilma Rousseff's full speech is available at: http://gadebate.un.org/sites/default/files/gastatements/68/BR_en.pdf

[4] The Montevideo Statement was signed by ten representatives from ten Internet organizations managing core Internet infrastructure and values: APNIC, AFNIC, ARIN, IAB, ICANN, IETF, ISOC, LACNIC, RIPE NCC, W3C. The declaration is available at: http://www.internetsociety.org/news/montevideo-statement-future-internet-cooperation

[5] A widely used definition of Internet governance was coined by the Working Group on Internet Governance, a global group of experts from different sectors was convened by the U.N. to feed into the WSIS Summit in Tunisia in 2005: *Internet governance is 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 programmes that shape the evolution and use of the Internet* Available at: http://www.wgig.org/WGIG-Report.html

coordinating the domain name root server and the allocation of Internet numbers - whose services is supervised by the National Telecommunications Information Agency (NTIA) of the United States - and the Brazilian Government. The final outcome was a full, two-day global meeting following a multistakeholder, bottom-up process that discussed two issues: the principles for Internet governance and the future roadmap for the development of the ecosystem[6]. This type of forum had had no precedents in the fifteen years of consolidation of the Internet governance regime, which for Mueller (2002)[7] had its clear process of institutionalization with the creation of ICANN in 1998. Despite varying interpretations as to the success of this conference, this meeting accomplished its formal objectives: to showcase the coordination of a global, dispersed community of individuals, organizations and actors, and how they could work embodying multistakeholder processes. Most relevantly, it produced an outcome document[8] the "Netmundial Multistakeholder Statement" with the aim to provide some direction to the Internet governance process after the distrust generated by the mass surveillance scheme. For Brazil it was the opportunity to close the promise opened by President Rousseff's speech half a year earlier and to position itself, using public diplomacy tactics, as one of the global leaders in the international Internet governance regime.

So, how come a country that was not involved in the original DARPA project, where the Internet was originally developed, managed to become a global reference for Internet governance? This work argues that Brazil's role in this outcome was possible in the first place due its domestic institutional trajectory, which has provided legitimacy and a foundation for its international positions. These two domestic processes are the creation of the Brazilian Internet Steering Committee (*Comitê Gestor de Internet - CGI*) and the development of a Brazilian "Internet Bill of Rights" (*Marco Civil de Internet*). *Marco Civil* was finally approved before NETmundial at the Senate and was signed by the President Rousseff during the first day of the meeting. Marco Civil contains strong rights-based principles for law relating to the Internet, as well as specific provisions to protect user privacy and free speech rights, promote Internet access, preserve net neutrality, and shield intermediaries from liability for user-generated content, all of part of Rousseff's speech at the UNGA. This law had been under discussion since 2011 and NETmundial triggered a final national debate in order to pass it on.

But this work will look into more detail into the role and process of the CGI for its institutional consolidation as the Internet policy enclave in the country. In particular, the creation of the CGI in 1995 had promoted governance processes around the management of critical Internet resources from a domestic perspective which conforms to multistakeholder mechanisms of Internet governance, and to other key principles about the Internet as an open, end-to-end and neutral network, ideas that have been at the core of Internet-networking practices for forty years.

The next section of the work will develop the consolidation of networking activities in Brazil in order to trace the institutional and ideological foundations of Internet governance. The third section will contextualize the actions of CGI and the involvement of Brazil in the international regime.

II.   The origins of networking in Brazil

The Internet brought about three main confrontations to the nationalist, statist and centralized viewpoint of communications in Brazil – as well as in other states in Latin America.

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[6] NETmundial was a global conference organized in Sao Paulo on 23-24 April 2014 with nearly 1,000 in-house attendants and another 500 who were following remotely. Roughly 20% were government representatives and the remaining was shared in roughly equal parts by participants from civil society, business and the technical community and academia. The outcome document: "NETmundial multistakeholder statement" had received over 1,000 comments for improvement since its publication one month before the conference in an effort to put into practice multistakeholder, bottom-up and open process.
[7] Milton Mueller, *Ruling the Root,* 2002.
[8] Netmundial Multistakeholder Statement: http://netmundial.br/es/netmundial-multistakeholder-statement/

The Ministry of Communications, who was not only the regulator of telecommunications but also had the monopoly of the international communications, was challenged by an emerging network of academic centers, which were striving for connectivity with research centers in industrialized countries who were bypassing and claiming for their own international gateways already in the late 1970's. Secondly, a state that had promoted a nationalist, strategic and military orientation of its communications policies did not feel comfortable with the TCP/IP protocol - which had been developed by the private sector, mostly in U.S universities, and in turn looked upon the OSI model and the X.25 protocol as its official protocols for communications generated under a multilateral organization and the UN umbrella. Thirdly, the multiple experimental academic networks that had emerged since 1975 imposed internal coordination challenges between the different agencies.

i. Early government strategies and the role of SEI and EMBRATEL

Until 1962, the telecommunications system in Brazil was run by private companies. The market was fragmented, there were low penetration rates and quality was low, features that were contrary to the vision that the military had for this sector. Thus its process of strategic restructuring with the Brazilian Code of Telecommunications (CBT) in 1962, which was the first systematic attempt to regulate this sector and it promoted the centralization of regulation and the interconnection between federal and state networks[9].

The Brazilian Telecommunications Company (EMBRATEL) was created in 1965 and the telecommunications networks became a State monopoly. The reform was further deepened by the establishment of a Ministry of Communications (MiniCom) in 1967 to centralize and coordinate the communications functions of government which created TELEBRAS in 1972 to address the problem of urban telephone connectivity. These companies served a double purpose of providing telecommunications services, but they were also instruments of a national economic policy.

TELEBRAS' subsidiaries were developed in all States of the Brazilian Federation, except for Rio Grande do Sul[10]. This would become an important factor since it helped structure a territorial base for communication and data networks in the country that run parallel with the networking efforts of universities. Several incidents between EMBRATEL and TELEBRAS on the scope of data communication networks finally decanted in favor of EMBRATEL as the official gatekeeper of the international communications gateways of the country. The "First Latin American Seminar of Data Communications" in 1975 in Sao Paulo, where the country enjoyed its first experience with ARPANET via EMBRATEL, with the personal attendance of the Minister of Communications and other government agencies, universities and firms. This event served to highlight the increasing importance of the role of international data communications and provides evidence of the emerging presence of the Internet as an emerging global networking technology, despite the use of the privately developed TCP/IP protocols[11].

"The Computerization of Society" (1978), the report developed by Simon Nora and Main Minc for the French presidency and later the MacBride report[12] were very influential in consolidating a national strategic position on the role and future of data communications and computing strategies in this country, which had an impact on industrial policy for the development of electrical devices and supplies. Particularly the Nora – Minc report, with its carefully crafted administrative and prescriptive tone[13] served to capture the zeitgeist of computer and information

[9] Marcelo Sávio, *A trajetória da Internet no Brasil: do surgimento das redes de computadores à instituição dos mecanismos de governança.*, 2006.

[10] Since the State of *Rio Grande do Sul* had pioneered the process of nationalization by taking over the private company - ITT - in 1962, it had developed its own public utility to provide telecommunication services.

[11] Vint Cerf and Keith Uncapher, both Internet "pioneers" participated remotely to demonstrate the qualities of this new form of electronic networking.

[12] Adler, *The power of ideology*, 1987

[13] AndréeWalliser, "Le rapport Nora-Minc. Histoire d'un best-seller", 1989

policy in countries, including Brazil, that were questioning the role of U.S. companies and government in data communication networks. The quest for national autonomy via an industrialist policy was a key issue. The report reaffirmed the orientation of several policies embraced by government which helped forge an ad-hoc alliance between the military and the technocrats and a nationalist view of scientists that had to serve this ideology.[14] It also ratified the role of EMBRATEL in international communications and the Special Secretariat for Informatics (SEI acronym in Portuguese)[15] and ratified the issue of trans-border data flows as a sovereign matter where OSI protocols became the government norm (and not TCP/IP).

ii.   Civil society, the academic computer networking and the challenges with EMBRATEL

In the early 1980's, the military regime of João Figueiredo allowed political dissidents to return and with it two of the pioneers for the widespread adoption of the Internet in Brazil came back to their home country: Carlos Afonso and Herbert de Souza ("Betinho"). In 1981 they founded an NGO called IBASE[16], which adopted personal computers (Afonso had brought an Apple computer from Canada) as a primary form of work and they quickly established relationships with other international non-profit organizations in the field of development. E-mail was an essential tool and they rapidly became involved with BBS, with funds from the International Development Research Center (IDRC) of Canada. They used the RENPAC data network (with a license duly obtained from SEI) and set up *AlterNex*[17], which provided services to NGOs such as email, remote database access and teleconference services. *AlterNex* later obtained funding from the Ministry of Science, Technology and Innovation, as well as the UNDP.

The TELEBRAS – EMBRATEL legacy determined that the protocol used in the country was the OSI. "So when we started the effort of introducing the Internet in Brazil it generated a tremendous resistance from the state telecommunications' structure. At the time we even considered exploring a way to implement TCP/IP over OSI, but that was an unnecessary complication which was not efficient from a technical point of view"[18]

While civil society was engaging with BBS, Fidonet and UUCP nodes, the decade of the 1980's was also a time of progress for Brazilian academic networks that expanded in the Northeast (with the CEPINNE initiative), in the industrial sector (Rio-Sao Paulo) and the Río Grande do Sul State through (UFRGS, Campinas). REDPUC provided initially an experimental packet switching network between three universities in Rio de Janiero and Sao Paulo, as well as TELEBRAS, EMBRATEL. It was one of the first networks in the world to provide 10 Mbps of transmission and later on developed to become the first network to integrate text and voice. Its slogan was "A network made by us" which evidenced the ties that existed between the scientific sector and government, despite the fact that government was only allowing the use of OSI protocols. Still, these networks were not available to the wider citizenry.

The challenge with these networking initiatives was always the EMBRATEL bottleneck with the international communications gateway. Not only was it expensive for non-profit ventures, but it was also limited to OSI protocols. Even though many scientists embraced OSI, there was increased global networking over TCP/IP.

In 1988, the National Laboratory of Scientific Computing (LNCC) in Rio de Janeiro finally obtained a temporary authorization from EMBRATEL to connect to BITNET – a network that was not based on OSI protocols. This paved the way for other universities and particularly for a

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[14] Adler, 1987

[15] SEI was responsible for data communications within Brazil and the outside world. In 1984 it provided permits for two data networks to operate in Brazil, as long as the connectivity was provided through EMBRATEL. SEI also supervised the National Computer Plan (PNI), which embraced the OSI model.

[16] Acronym for "Brazilian Institute of Social and Economic Analysis".

[17] AlterNex, for "Alternative Node".

[18] Afonso, interview with the author, 20 October 2010.

powerful actor in the State of Sao Paulo, the *Fundaçao de Amparo e Pesquisa de Sao Paulo* (FAPESP) to follow suit with this network in 1989.

FAPESP had already set up an academic network in 1988 that linked five scientific organizations in the State of Sao Paulo: the Academic Network at Sao Paulo (ANSP) over the RENPAC[19] data network. FAPESP's connection to BITNET in 1989 with FERMILAB in Illinois had media coverage and became a national event. That year FAPESP also obtained the delegation of the .br country code Top Level Domain (ccTLD) through the IANA / Jon Postel. This marked the creation of an institutional path in Brazil where FAPESP would play a major role in the technical operations of core Internet resources (names and numbers) in the country. FAPESP established the first international TCP/IP connection in Brazil with the NSFNet[20] in 1991 and IANA delegated a Type B block of IP addresses to this institution. It is worth noting that the emergence of BBS, Fidonet, UUCP and the connection to the NSFNet and IANA delegation for a ccTLD in Brazil, as well as in most other countries in Latin America, were quite synchronic with the adoption of these networking technologies in Europe. This evidences the efficiency of the process of diffusion via epistemic communities and has implications about the speed of travel of ideas and how this technology found its ways in this region, despite the infrastructural barriers during this initial period.

The effects of TCP/IP implementation in Brazil opened the door to other initiatives. The National Research Network (RNP) began its consolidation that same year. The institutionalization of the RNP had a profound impact on the acceleration of the adoption of TCP/IP versus the previous OSI initiatives, a legacy of both government enforcement of the standard though its apparatus (mainly MiniCom, SEI, EMBRATEL, TELEBRAS) as well as academic exchanges with computer centers in Berlin, Cambridge and Tokyo.[21]

These rapid advances between 1989 and 1991, largely provoked by the opening of EMBRATEL to BITNET for academic purposes, were followed by a critical juncture that marked the beginning of the end for OSI: the promulgation of Law 8248 by President Collor de Melo in 1990 which accepted TCP/IP as a networking standard for national and international communications. The norm also liberalized the computer market and telecommunications' equipment. Although the government maintained a preference for OSI technology, this ended the struggle with the academic sector's use of TCP/IP and would determine a realignment of the different actors, since civil society efforts would benefit from this development with their a major breakthrough for the Brazilian Internet that would come with the organization of the Eco Summit in 1992 in Rio de Janeiro and the role of IBASE.

IBASE was the Brazilian node of the international advocacy network "Association for Progressive Communications" (APC) that was closely monitoring the process of the Eco Summit, and due to this position was contracted by the UN to transmit the event in 1992 using the Internet. The routing equipment had been provided by the UN. For EMBRATEL this was a severe blow to their control of international communications. Despite the fact that the Brazilian government had already agreed about the Internet transmission with the United Nations using the services of IBASE – *AlterNex* (the first ISP in the country, a non-commercial venture), it was only a month before the conference that they were finally granted a link to connect to the Internet from EMBRATEL.

The success of IBASE in providing Internet connectivity for this global summit helped to develop *Alternex* which consolidated in the next three years as an ISP providing services to several NGO's and other private users[22], using the legacy infrastructure of the Rio 92 conference and the *Rede Rio* which was connected to the academic network in the state of Rio de Janeiro. By 1996

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[19] RENPAC: EMBTRATEL's data network created in 1984.

[20] The academic Internet network of the U.S.

[21] To name a few of the documented visits and cooperations of academics, mainly from universities in Rio de Janeiro and Rio Grande do Sul.

[22] AlterNex was a major UUCP hub for more than 130 BBSs in Brazil and the organization estimated in 1996 that it had 20,000 users by the Internet to BBS (e-mail and newsgroups). Sávio, 2006.

AlterNex had 5,700 subscriptions, the vast majority in Rio de Janeiro, followed by Sao Paulo. This created obvious tensions, since although *AlterNex* was a non-profit initiative, it was charging for a service using the infrastructure of an academic network. *AlterNex* also engaged in capacity building with different user communities: domestic, entrepreneurs, and research, consolidating the community of Internet users around a technology that provided open standards[23].

In Brazil, the role of "epistemic communities", understood as a network of professionals with expertise in a certain policy area[24] emerged forcefully in the academic sector, and civil society in the case of Brazil, through a double process. In the first place, by legitimizing the Internet and other forms of networks with domestic users and providing some of the first services for their users and socializing TCP/IP technology. The experience of the first ISP *AlterNex*, which provided a service that went beyond its remit – that of providing connectivity after the Rio 92 conference, by incorporating domestic users with personal computers to a network that was only accessible by academics before 1992, provided a wider base awareness on the benefits of this technology. The support of the UNDP – both by legitimating the services which IBASE provided to the general conference as well as to journalists and NGO's attending the Summit of Rio '92, added to the material and financial assistance for obtaining the routers and equipment was a legitimating force from the international arena for the development of networking activities in the country. In the second place, by a mimetic institutional approach[25], following the expansion of networks and the Internet in the U.S. which, with the predominance of universities, also served as a model for their networking activities and the uses of information that were being transformed by the net.

Although BBS, Fidonet and UUCP had provided a foundation for the development of networking activities, it was the expanded need of the academic sector for greater capacity of file transfer and more interactivity with their peers outside, which made the Internet based on TCP/IP protocols the selected choice, since not even with BITNET offered a solution to these informational and communicational needs.[26] In this way, pragmatism and unsatisfied needs were more important for the adoption of TCP/IP than national discourses on sovereignty and inter-dependence[27] in Brazil. Through a combination of struggle and alliance with the government, civil society and the Brazilian scientific community succeeded in imposing Internet protocols as the main standard for networking by the time the World Wide Web emerged with force in 1995. Telecommunication companies, traditionally espousing ISO-OSI standards and ITU processes – and multilateral governance mechanisms - had to adapt to a communications protocol that not had not been developed by them and which also did not conform to the model of standard development by government agencies as espoused by the ISO.

iii.   The Brazilian Internet Steering Committee (CGI) and the consolidation of a national institutional platform

The presidential decree 004/1995 finally provided a national for the Internet and provided key definitions on value added services, telecommunications service and Internet Service Provider [28]. This norm liberalized the market for Internet access and Internet adoption, although not extent of problems, particularly in suburban and rural communities, became more widespread in the country

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[23] By 1995 there were 45,000 users with 300 national BBS, making it the largest community in the region. But these amateur initiatives, although essential to spread the use of home computers for email and news, as well as developing a culture of network entrepreneurs[23], were not decisive for the widespread adoption of the Internet.

[24] Peter Haas, Introduction: *epistemic communities* and international policy coordination, 1992.

[25] Paul J. DiMaggio and Walter W. Powell "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields", *American Sociological Association*, 48, 1983.

[26] Sávio and Cukierman, "Os primordios da Internet no Brasil", 2009. In particular, BITNET was supported by mainframes, which made this difficult for smaller, under-resourced initiatives due to the cost of this equipment.

[27] Adler, *The power of ideology*, 1987

[28] It is worth bearing in mind that in 1995 ANATEL, the new independent communications regulator was created, restructuring the media and telecommunications former regulator functions into one centralized body.

– at 30% average annual growth rate during the first decade[29].

The liberalization of the telecommunications market also marked the creation of the Internet Steering Committee (CGI) for Internet policy making through an inter-Ministerial note which was approved only a month later in May 1995 and it involved the Ministry of Communications – representative of the telecommunications paradigm that had dominated State policy on data communication until the early 1990's – and the Ministry of Science and Technology, which represented the new approach to global, decentralized communications as a matter of innovation and new opportunities for development. The CGI was created as a multi-stakeholder, consultative body aimed to represent the interests of users and civil society, scientists, industry and government in developing and promoting the Internet, as well as enhancing technical quality, innovation and the dissemination of available services. The creation of this multi-stakeholder organ paved the way for the consolidation of institutional and technical choices by which the Internet could be governed in the country.

The role of policy coordination of the Internet Steering Committee in Brazil served as a platform to mediate in the formation of these interests. The consolidation of the CGI granted an institutional setting where all stakeholders involved had to now share their expertise and interests, as well as reach consensus on some basic policy initiatives, since it had no binding power but had competence to issue recommendations, principles and positions. At the same time it granted the initiative which a social and political legitimacy, as well as a public interest and developmental focus that would have been more difficult to achieve had it remained solely under government or under the academic and civil society sectors. It also served to integrate civil society – which envisaged new technologies as a new form of social empowerment and development – and the research and academic community which were increasingly dependent on international networking for their projects. For many government agencies, it was a platform for increased public policy coordination, as well as for the burgeoning business sector – mostly ISP associations- who despite the liberalization of the telecommunications market and the unbundling of interconnection services in the last loop, depended on basic telecommunications infrastructure.

CGI's competence over the oversight of critical Internet resources granted the organization with a growing visibility, in particular with the assignment of .br domain names which served as unique identifiers in a moment of rapid expansion of the commercial Internet and the World Wide Web. In 1998 due to the growing expansion of Internet uptake CGI started to charge for .br domain names. This practice followed other national examples, where country code registries were adopting this policy for similar purposes. It was this same year that ICANN – the Internet Corporation for Assigned Names and Numbers – was formed, following the increasing competition in the domain name industry, market opportunities and clashes with respect to trademarks and conflict resolutions for domain names[30]. The Clinton administration in the U.S. forcefully worked its way to create a regime in this emerging area since the domain name industry, heavily concentrated in that country, needed rules and procedures for the ever increasing disputes emerging over trademarks and intellectual property rights being disputed in the global domain name space.[31]

The research foundation of the state of Sao Paulo, FAPESP who had been commissioned since CGI's inception in 1995 to continue with the operational aspects of the allocation of IP addresses and .br domain names was also exercising a *de facto* policy authority over domain name disputes which created ambiguity and confusion with respect to its scope and remit. In 2003, the CGI underwent a transformation which was considered a victory by the academic and civil society groups since it granted independence to these sectors, as well as to the business group, to select their own representatives for this body[32]. This decree 4829 materialized the structure of a non-

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[29] Sávio, 2006

[30] Milton Mueller, *Ruling the Root*, 2002.

[31] Everton Lucero, *Governança da Internet: Aspectos da Formação de um Regime Global e Oportunidades para a Ação Diplomática*, 2011.

governmental, autonomous organization, operationally served by a community of permanent staff and where the role of the State was "in its orientation of protector of the public interest as the main motive for the original creation of this entity", as accounted by Minister Moura Campos, one of the strong promoters of this initiative and CGI director at the time[33] and materialized the structure that still operates today for the CGI.

It reinforced its operational role over critical Internet resources, which were not only important for the national management of certain logical layers of the Internet (.br domain names, IP addresses and Internet Exchange Points), but was also responsible for the development of research programs to promote the Internet in Brazil. It also appointed CGI as the representative of the Brazilian Internet at national and international forums and defined the current structure of CGI with 21 board members from the different stakeholder groups: nine representatives from Government ministries and agencies;[34] four for both the business sector and civil society, three from the technical and academic community and one with a notorious expertise in Internet matters. This corporate structure solution has been one of the most successful efforts for the development of national Internet governance mechanisms[35] and has served a public diplomacy effort in several occasions, including during the discussion phase of the Working Group on Internet Governance (WGIG) (2004-5) and NETmundial, to name but a few of these instances – despite the fact that *Itamaraty*, the Ministry of Foreign Affairs is not directly involved in this body. It has been conceived as a best-practice in the effort to create national domestic spaces for a topic that was considered a global issue – or purely technical/operational, as has been the case in many other national examples of critical Internet resource management, but which has shown that there is scope for policy development at a national level that can relate and affect with global processes.

3. Adoption, adaption and reaffirmation of a regime player

This last section of the article aims at providing a synthesized perspective of the development of Brazil's influence at the international regime of Internet governance. This regime is of private nature, comprised by a number of organizations and processes, many belonging to private organizations governed by multi-stakeholder mechanisms, notably ICANN, the IGF, WSIS and the ITU (WCIT 2012), to name but a few of those that will be analyzed to illustrate how Brazil developed an international position in the last decade before helping catalyzing NETmundial in alliance with ICANN. For some authors[36], this Internet governance regime has proved to be effective both normatively and politically[37] (Young, 1999) ensuring it provides responses to the changing problems that emerge in the Internet agenda.

By the time the process of the World Summit on the Information Society – known as WSIS – was launched and gained momentum during its two meetings in 2003 in Geneva and 2005 in Tunisia, Brazil had consolidated domestically the institutional governance of the Internet, sustained financially by the management of its critical Internet resources. During WSIS, Brazil played a significant role at the Working Group of Internet Governance (WGIG) through one of its CGI members, Carlos Afonso (an Internet pioneer from civil society, as depicted earlier). But for the first time its Foreign Affairs Ministry, Itamaraty, participated strongly with an agenda and a position during this process. Brazilian Foreign Affairs dominant position during WSIS was highly

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[33] http://www.cgi.br/publicacao/comite-gestor-internet-e-interesse-publico/79
[34] CGI representatives are elected by their own constituencies for a period of time, except for the nine government bodies which are directly appointed by the agencies. The nine government organizations are: Ministry of Science and Technology; Ministry of Communications; Ministry of Development, Industry and Trade; Presidential House; Ministry of Planning; ANATEL; National Council for Scientific and Technological Development; National Council for Science, Technology and Innovation.
[35] Waudo Siganga, *The case for national Internet governance mechanisms*, 2005.
[36] Y.J. Park *The political economy of country code Top Level Domains*, 2008.
[37] O.R. Young, *International Cooperation Building Regimes for Natural Resources and the Environment,* 1989

critical of the unilateral control of the IANA functions and root zone management by the USG's Department of Commerce. They claimed for a more balanced regime with respect to DNS oversight, rather than unilateral control exercised by the U.S. This position aligned the country during the WSIS Summit with Pakistan and Iran, a move that was not welcomed by other sectors in Brazil, which saw this as a threat to democratic values and human rights[38].

Although WSIS outcomes reaffirmed the status quo of the governance of critical Internet resources and ICANN's role, it included some of the positions which Brazil was promoting on cybersecurity – as well as it included an explicit reaffirmation of the sovereignty of ccTLDs, but since their expectations were not met, it began to re-formulate its agenda to work within the regime. This post-WSIS change in strategy was evidenced with Brazilian diplomatic efforts by promoting some of the issues emerging with the Tunis Agenda, the outcome document of WSIS in 2005. Their efforts concentrated on two fronts: enhancing the IGF which had emerged as a mandate in Tunis, and they were the local hosts of the second Internet Governance Forum (IGF) in 2007, the only IGF that has held in the Latin American region since then; its also coordinated the UN resolution at the General Assembly on WSIS that same year. These two activities showed how the country was now aiming to provide changes to the regime, by working from within.

In 2011, together with India and South Africa, Brazil promoted a document within the trilateral dialogue platform known as IBSA which aimed to create a body within the UN system for Internet public policy. The proposal was never an official government position in any of these three countries, but it did have the support of some civil society and academic centers in these countries[39]. It sparked acute opposition, since it questioned the current underlying legal and political nature of the structure of the regime, where many functions are performed by private organizations and a greater role of government is perceived as a threat to innovation, openness and multistakeholder participation. It also criticized the usefulness of the current multistakeholder venue forums, in particular the IGF, as an adequate solution to address global Internet governance issues. The proposal, which never had a very clear official status, was finally discarded but it showed again Brazil's resistance to the status quo.

The country demonstrated again a position contrary to the Internet governance regime during the World Conference on International Telecommunications (WCIT) by signing the proposed changes, which included four articles which could potentially affect the Internet. Despite its position, it is worth noting that Brazil, as many other democratic countries did not sign WCIT considering its potential impact on the Internet, but in relation to other reforms in the telecommunications area[40].

Thence, since WSIS, Brazil's position has oscillated between positions that have attempted to change the regime from outside and which have been received as hostile attempts to take over the Internet, and at other times it has attempted to change from within, by hosting the IGF, by participating at ICANN's GAC and by promoting the application of the WSIS agenda. But these persistent efforts, added to its geopolitical position in Latin America and as a BRIC country; the consolidation of an Information Society Division within *Itamaraty* and notably a solid domestic front whereby the CGI has consolidated a stable institutional position and legitimacy of Internet management, have all provided a stable foundation for what became its clearer victory in terms of providing systemic change to the regime: NETmundial.

As stated at the beginning of the article, NETmundial was a direct effort to address the principles exposed by President Rousseff at the UNGA. It was also an endeavor to discuss changes in the current governance mechanisms, notably the IGF which for many, including Brazil, needs

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[38] Lucero, 2011.

[39] The IBSA Seminar on Global Internet Governance was organized by the *Fundação Getulio Vargas* in Rio de Janeiro in September 2011 to discuss the proposal.

[40] For a further analysis on the motives for signing WCIT in 2012, Aguerre (2013)
http://blogs.lse.ac.uk/nef/2013/04/04/postwcit-internet-governance/

reforms in order to adequately address the current Internet governance issues. NETmundial provided an outcome document which addresses some key issues with respect to principles and the future Internet ecosystem, a tangible product which the different stakeholders can use as a basis. Lastly, it will be remembered as a unique exercise in bottom-up multistakeholder governance, using new technologies as an indispensable tool for distributed collaboration in the production, dissemination and edition of information. But it also catalyzed some decisions that had been long overdue: since 2009 the IGF did not have a permanent chair and it was finally announced at NETmundial; internally in Brazil it promoted the final approval of Marco Civil which had been discussed for nearly four years.

For these reasons, NETmundial is already a landmark in the history of the Internet governance regime and for Brazil this has meant a soft-power exercise that has left the country in a leading status in the issue. The opportunity to show a position that was engaged with the architectural principles of an open, distributed and un-fragmented Internet; with governance principles based on democratic, multistakeholder, open and bottom-up processes, as well as in line with basic human rights (privacy, freedom of expression, freedom of association, access to information, accessibility and development) and with a domestic front where both a civil rights framework for the Internet is in place and the CGI provides an institutional locus for specific Internet issues in the country, they all have doted the process with the legitimacy that very few other states could have accomplished.

4. Final comments

The Internet governance regime is facing new challenges as there are significant moves by traditional actors and forums over the past decade. ICANN is undergoing a process of change in order to address accountability issues to house a probable stewardship of the IANA functions once the NTIA steps back. The IGF will commemorate its 10th edition in 2015 and needs to provide a clearer set of outcomes in order to achieve greater legitimacy as the appropriate venue to discuss these issues. The ITU faces obsolescence if it does not find a meaningful approach to deal with Internet issues, whose coordination and most of its standard-setting functions are beyond the scope and remit of this organization. This shows that there is at least some scope for change within the current regime and that countries with an Internet governance agenda, such as Brazil, are now facing an opportunity to address the necessary changes. It also showcases the effectiveness of the Internet governance regime since it has promoted a change in the behavior of a national player in the interests of policies and performance of institutions that contribute to a positive management of the problem of trust after the Snowden declarations. It has proved the regime's effectiveness in providing a working space for a country that has oscillated in its preference to the current regime's processes and outcomes but which now plays within the regime – despite the fact that it will continue to bring about changes to it.

Brazil has a decade of experience in trying to produce systemic changes for Internet governance, but its success comes from its domestic institutional path, which this article has traced to the state monopoly of communications in the decade of the 1960's. With a long-standing tradition of conflicting views of communications based on independence and sovereignty on the one hand, while at the other embracing global innovations and the opportunity for development that new technologies bring, it has managed to consolidate an institutional model to contemplate these differences within an institutional framework – the CGI – that is focused on the Internet as a specific issue with its own set of problems, characteristics and tensions. It is also an example of how the dynamic interaction of domestic trajectories and international positions could be further enhanced to introduce inputs to the international regime of Internet governance, while respecting the openness and decentralized characteristics of a network that has proved to be a democratizing technology in the spheres of social, cultural, economic and political life.