

A REFLECTION FROM THE WGIG FRONTLINE

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Other contributors to this book outline the history of the Working Group on Internet Governance (WGIG), how and why it was established, and its mandate. This chapter provides a personal perspective of what was for me an intense and stimulating piece of work over six months, which was very different from my “day job.” Although I was a member of the Secretariat, and therefore intimately involved in the work of the WGIG, I was not directly a participant in its deliberations. The relatively short period that has elapsed since the WGIG presented its report has provided the opportunity to reflect on the WGIG’s work. This brief memoir therefore proposes what is intended as a sympathetic critique of the process and its outcome.

In many respects the group was unique in the history of international affairs in terms of both its composition and its working methods. In this it reflected the character of the Internet itself, as well as the nature of the issues it was called into being to discuss and report on. Therefore, it was understandable that at the outset there would be some uncertainty about the WGIG’s direction and capacity to fulfill its mission. Indeed there were many potential difficulties facing the WGIG that it needed to overcome in order to complete its task.

Basic questions about the nature of Internet governance, the type and scope of issues to be included under this rubric, and characterization of the issues themselves, all demanded answers. Some observers expected the group to proceed in what they saw as the most logical way, first to establish a ‘working definition’ of Internet governance, and then to proceed from this base to determine what issues were relevant. There was some expectation in certain circles that the group should seek answers to these questions early on the process and that the Preliminary Report presented to PrepCom-2 on 24 February 2005¹ should narrow down the scope of the WGIG’s work. Instead, the WGIG agreed to keep a wide range of issues open because it was considered that narrowing the focus prematurely might result in exclusion of important areas. In the event, agreement on a ‘working definition’ was one of the final tasks undertaken, in the light of experience and discussions over the whole life of the WGIG. The Preliminary Report did not enter into a discussion of the issues but outlined the process and working methods adopted by the group. It emphasized a need for an approach that was open and inclusive and which did not narrow the focus of the range of issues too quickly: “It was felt that an iterative

¹ Working Group on Internet Governance, “Preliminary Report”, WSIS-II/PC-2/DOC/5, 21 February 2005.

method would be the best way of moving toward an implicit working definition of Internet governance.”²

Membership of the WGIG was deliberately drawn from the widest possible range of backgrounds, expertise and geographical region, and equally from three principle stakeholder groups: governments, the private sector and civil society. While members of the group were selected as individual experts, there was at times a degree of confusion as to whether members were acting in their own capacity as opposed to acting as representatives of one or more stakeholder groups. In order to achieve such a breadth of representation the group needed to be perhaps larger than prudence would have dictated: forty is a very large number of people to work with.

The tensions during the lead up to the Geneva phase of the World Summit on the Information Society (WSIS) which resulted in the establishment of the WGIG were evident throughout the seven months of its work. Yet it was also apparent from the first time it met on 23 November 2004 that there was a degree of cohesion within the group and a sense of common purpose and goodwill, and this was maintained through to the end of the process. International Telecommunications Union (ITU) Secretary-General Utsumi in his speech at the first meeting envisaged the work of the group as being narrowly focused on issues principally to do with the work of the Internet Corporation for Assigned Names and Numbers (ICANN): “... we should focus on the core activity of the management of Internet resources by ICANN, in particular top-level domains, which is where important issues remain unresolved.”³ By contrast, although introductory remarks by each of the group members highlighted the diversity of their backgrounds, there was an immediate consensus that the issues to be examined were not narrowly focused, and ICANN’s work, while important, was not the sole issue and for some not necessarily the principal issue.

It was remarkable that despite the size and diverse nature of the membership much of the group’s work was achieved using email between the face-to-face meetings. Email provides great utility and immediacy and, perhaps because of this, it is not uncommon in the heat of online debate for serious misunderstandings to arise. This is especially the case when writers have strongly divergent views on a range of issues, different cultural perspectives, and are often working in a ‘second’ language. There were indeed one or two instances where misunderstandings did lead to somewhat forceful online exchanges. But overall and throughout the life of the WGIG the email exchanges were generally friendly, courteous and highly productive.

² “Preliminary Report”, paragraph 23.

³ Yoshio Utsumi, presentation at the First Meeting of the Working Group on Internet Governance, November 2004 <<http://www.wgig.org/docs/Utsumi.pdf>>.

The WGIG agreed at its first meeting to apply to its own process the WSIS principles for management of the Internet, i.e. it should be “multilateral, transparent and democratic, with the full involvement (all stakeholders).”⁴ All meetings provided for open-ended consultations open to anyone who wished to attend. Simultaneous translation into all United Nations languages was provided in the open sessions and a number of innovations were introduced, adopted from procedures used to enhance the openness of ICANN’s meeting procedures. The third session was webcast and the fourth session audiocast, and both included real-time captioning (live transcripts) of the discussions in English. The live transcripts were available almost instantly on the Internet, which may have caused consternation for some participants who were not used to seeing their Geneva verbal statements made readily accessible to the entire world.

The transparent nature of the process had an unexpected downside. The sharp differences noted above between initial expectations of some external observers and the WGIG itself manifested themselves in reaction to the first round of working papers prepared in advance of the second meeting of the group. Some early comments questioned the range of issues chosen and many were critical of the quality of some of the papers, noting that in most cases there already existed an extensive body of expert literature and that the group appeared to be ‘reinventing the wheel’. Such comments overlooked or ignored the purpose of these papers. For the WGIG members, the first round of papers was an opportunity to reach a degree of common agreement on the nature of the issues to be discussed. The draft nature of the working papers was also sometimes overlooked: for the WGIG process to be truly transparent it was important to expose the thinking of the group to external observers at an early stage. This increased the risk that the drafts would be incomplete and that they would include some errors and inconsistencies. The open consultation process was to provide opportunities to correct any such errors and allow feedback on the priority issues. It was noteworthy that comments on the second round of working papers were generally very positive by comparison with those in reaction to the first round.

The papers in the third round were developed as draft text for what was expected to be a 60 to 70 page final report. Complex ideas, analysis and commentary reflecting the diversity of opinions, both within the WGIG itself and drawn from the extensive comments received from external commentaries on the wide range of issues, were condensed, sometimes brutally, into chapters of what is now the Background Report. The WGIG was not expected to act as a negotiating body and it was important that its report reflect, as accurately as possible, the full range of opinions within the WGIG. It was for the WSIS process or, more particularly, PrepCom-3 to work through the identified options. Much of what was hoped to be final text

⁴ World Summit on the Information Society, “Declaration of Principles”, WSIS-03/GENEVA/DOC/0004, 12 December 2003.

was circulated well in advance of the final WGIG meeting in mid-June, which was expected to focus on a relatively brief ‘executive summary’ of the long report. However, on the eve of the meeting it was decided, rightly, that the final Report needed to be considerably shorter than the existing text and that simply preparing an ‘executive summary’ would not meet the requirements.

In the event, the three days and nights of intensive discussion at the Château de Bossey resulted in a document which, remarkably, for the most part represents a consensus of the whole membership of the WGIG, the exception being the few pages outlining four models for possible institutional arrangements principally for the oversight of what are essentially the so-called Internet Assigned Numbers Authority (IANA) functions. The Background Report is to be regarded as a reference document.

It is a reasonable speculation that everyone involved in the WGIG process would see as a successful outcome that the work of the group over seven months or so would stand up to critical examination. So what criteria does the work of the WGIG have to meet to be judged as a success?

One criterion might be the process by which the Report was produced: the degree to which the WSIS principles for management of the Internet were followed by the WGIG in achieving this task. A number of commentators have described the WGIG process as indeed providing a model for openness and transparency and for involvement of all stakeholders. For example, the Civil Society Internet Governance Caucus in a statement to the second WGIG open consultation on 16 February 2005 stated: “We believe the WGIG is becoming a working model for multi-stakeholder collaboration, with all sectors providing expertise and contributions. The governments that agreed to this new global practice should now take positive steps to ensure its full implementation.”⁵

A key criterion would be whether the WGIG completed the task set for it by the Geneva phase of the WSIS, which is to produce a report which answers the three questions posed by its terms of reference, which indeed it did. However, judging by the comments received on the Report since its publication⁶, opinions of other interested parties about the completeness of the Report are mixed. It receives praise for identifying key values and principles that any successful Internet governance regime needs to meet, especially the need for security and stability, a regard for the ‘end-to-end’ principle, freedom of expression, and the need to encourage and enhance continuing innovation. The working definition of Internet governance has also been

⁵ Civil Society Internet Governance Caucus, <<http://www.wgig.org/docs/CS-Hofmann.rtf>>.

⁶ World Summit on the Information Society, “Compilation of comments received on the report of the Working Group on Internet Governance”, WSIS-II/PC-3/DT-7, 30 August 2005.

well received. These sections of the Report are effectively summaries of much more extensive comment in the Background Report.

However, the need to highlight and focus closely and selectively on what were judged to be the top priority issues, combined with the need for brevity, resulted in much of the work covered in the Background Report being left out of the Report itself. Some comments on the Report express concern about what are perceived to be serious gaps and oversights, such as an over-emphasis on policy as opposed to technical issues and a failure to adequately address the need for policies to enhance access to the Internet. In point of fact, the Background Report discusses these matters in considerable depth.

Finally, perhaps the most important criterion will be the impact of the WGIG Report has on informing the ongoing debate on Internet governance, both in the current phase of the WSIS and beyond. It is, of course, much too early to assess the work of the WGIG on this basis.

It is easy, when involved in a process as focused and intense as the WGIG, to lose sight of a broader picture. The reality of the public impact of the work of the WGIG was driven home for me when in late July, having completed my work on the Secretariat, I embarked on a two week tour of Turkey. No one else in the tour party had heard of the WSIS, let alone the WGIG. The term 'Internet governance' had no meaning for them. But everyone in the party had an email address and every evening, after checking into the hotel, most members of the group were impatient to check email and the news from home and made a beeline for the hotel's Internet facility.

