

INTRODUCTION

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The aim of this book is to give some insight into an exceptional experience of multi-stakeholder cooperation. It contains personal impressions of a group of people with a wide variety of backgrounds who were either members of the United Nations Working Group on Internet Governance (WGIG) or part of the Secretariat that supported its work. More than half of the WGIG members agreed to contribute to this book on short notice; this bears witness to the fact that they all felt their experience was positive and successful. Their contributions reflect their own views, and not those of the group as a whole.

The WGIG brought together people from different geographic, cultural and professional backgrounds. Individuals gathered with their different outlooks on life, different ideas and different ways of interacting, and in the process became a group with a common purpose. They listened to and learned from each other. During seven months of intense work, from November 2004 to June 2005, they did not necessarily change their opinions, but they did come to understand better where each other was coming from and they engaged in real dialogue. The group included representatives from governments, from the private sector and civil society acting in their personal capacity and participating on an equal footing. Ultimately, their varied backgrounds and positive interactions are also the strength of the group's main output--the WGIG Report. The fact that it was possible to reach a consensus within such a heterogeneous group gives weight to the Report. It also made the WGIG a successful experiment in multi-stakeholder diplomacy at a time when United Nations reform and new forms of global governance are high on the agenda of international cooperation.

In the context of discussions on global governance, Governments have been confronted with other stakeholders requesting to be allowed to participate in decision-making arrangements. The debate on Internet governance, however, followed a different pattern. Here, Governments wanted to obtain a say in the running of the Internet, which has developed outside a classical intergovernmental framework.

Internet governance is an issue that came to the fore at the first phase of the World Summit on the Information Society (WSIS), held in Geneva in December 2003. My personal involvement with Internet governance began in November 2003, when Switzerland, as host country of WSIS, took on the role as mediator to find solutions to some of the outstanding controversial issues, such as human rights, intellectual property, the role of the media, and Internet governance. I was asked by my head of delegation to take charge of some of these issues, among them Internet governance. The debate then was very polarized and, to a large extent, also very abstract. There were misunderstandings on both sides. The discussions focused on

“public policy issues” and the extent to which governments had a role to play therein. However, nobody was willing or able to spell out what was meant by “public policy” in the context of Internet governance. In short, there was no real debate on issues, but a confrontation of two visions of the world, or two schools of thought, and in Geneva it proved impossible to bridge the gap between them.

The WSIS negotiations were tough, and the two sides were firmly entrenched in their positions and not ready to compromise. One salient feature of the negotiations was that the Governments remained in charge and the Internet professionals who run and manage the Internet were locked out. It was not surprising therefore that the summit failed to produce what might be termed “a solution.” Before a solution could be found, there would have to be a common understanding that there was a problem that needed to be resolved. On the face of it, it would have been overly optimistic to hope that the final WSIS documents would go much further than being an agreement to disagree on these fundamental positions. In the end, negotiators did agree to continue the dialogue beyond the first phase of the WSIS, and to prepare the ground for the second phase in Tunis. In doing so, they put a new issue on the agenda of international cooperation.

Hence, the negotiations focused on process rather than substance. They reflected the two basic visions---namely private sector leadership versus intergovernmental cooperation. Those who insisted on the importance of private sector leadership wanted to prevent a repetition of the final stages of the WSIS Phase I negotiations, which took place in the absence of Internet professionals. Their main aim was to make sure that the private sector and all the other stakeholders would be part of the process. Those who wanted more intergovernmental cooperation pushed for some form of United Nations involvement. The compromise that was finally reached was a request to the United Nations Secretary-General to set up a Working Group “to investigate and make proposals for action, as appropriate, on the governance of Internet.”¹ It was hoped that the formula agreed on would give the flexibility required to be inclusive and give all stakeholders equal access to the work of the group.

As soon as WSIS-I was over, discussions started on how to move forward. A wide range of meetings held by intergovernmental and other organizations took up this issue, among them a workshop organized by the International Telecommunication Union (ITU) in Geneva, 26-27 February 2004, and a United Nations Information and Communication Technology Taskforce Global Forum on Internet Governance in New York, 24-25 March 2004. On the latter occasion, I was appointed by the Secretary-General to set up a Secretariat that would advise him in choosing the members of the WGIG and assist the WGIG in its work.

¹ World Summit on the Information Society, “Plan of Action,” WSIS-03/GENEVA/DOC/5-E, 12 December 2003, <<http://www.itu.int/ws/is/docs/geneva/official/poa.html>>

At the beginning of the process, it was crucial to find some common understanding on the scope and nature of the work, and on the role and composition of the group. This would be necessary before moving on to the next phase---setting up the group. Informal consultations and discussions took place at many gatherings where Internet professionals and other interested parties met, from the ITU's Telecom Africa in Cairo, Egypt, 4-8 May 2004, and the Internet Society's INET '04 in Barcelona, Spain, 10-14 May 2004, to the ICANN meeting in Kuala Lumpur, Malaysia, 19-23 July 2004. Politically, the most important event was the first session of the WSIS Preparatory Committee (PrepCom-1), held at Hammamet, Tunisia, on 24-26 June 2004. Again, Internet governance proved to be a thorny issue in the WSIS context. Some governments were not comfortable with the approach taken so far to setting up the group and planning its work. Broadly speaking, they had expected the WGIG to be more or less a continuation of the WSIS. However, this would not have been in line with the WSIS documents approved in Geneva. These clearly pointed to a process that needed to be open and inclusive and allow for the participation of all stakeholders on an equal footing.

The Secretariat was established in July 2004. As its first major activity it organized a two-day round of consultations open to all stakeholders to discuss the composition of the WGIG and the scope of its agenda. These consultations, held at the United Nations in Geneva on 20-21 September 2004, were chaired by Nitin Desai, Special Advisor to the Secretary General for the WSIS. They were well attended and the open format, in which members of the civil society and the private sector took the floor without any distinction from government representatives, was accepted by all. This format was to become the hallmark of the WGIG process. After these consultations, the picture became much clearer: there appeared to be an emerging consensus that WGIG should take a broad approach and no potentially relevant issue should be excluded. It also became clear that, in order to be seen as balanced, the group would have to comprise at least forty members. It was an aim right from the beginning to establish a group in which all the major players would feel represented.

This first consultative phase allowed the Secretariat to draw up a shortlist of candidates. On 11 November 2004 the Secretary-General announced the establishment of the WGIG, with forty members from governments, private sector and civil society. Nitin Desai was appointed Chairman of the WGIG.

The WGIG conducted its work between November 2004 and June 2005. It held four meetings at the United Nations in Geneva: 23-25 November 2004, 14-18 February 2005, 18-20 April 2005 and 14-17 June 2005. The final days of the last meeting devoted to the drafting of the Report took place at the Château de Bossey in the countryside near Geneva. On the occasion of its Second Session, the WGIG presented a Preliminary Report to the WSIS PrepCom-2. This Preliminary Report was discussed in a Plenary Session on 24 February. The Report itself was officially released on 14 July 2005.

The process was a key element of the WGIG work. The Geneva Summit, as described above, wanted it to be open, transparent and inclusive and involve not only governments, but also the private sector and civil society. The WGIG took up this challenge and tried to be innovative in this regard. It developed a process that allowed all stakeholders to participate on an equal footing in open consultations held in conjunction with all WGIG meetings, with the WGIG website providing a platform for input from all stakeholders. This worked because Governments recognized that the other stakeholders involved in the discussions on Internet governance had a valid contribution to make---their competence gave them legitimacy.

The WGIG was thus at the centre of a vast process. Throughout the period between the two phases of WSIS, many institutions took up the issue of Internet governance. WGIG members and the Secretariat were asked to report on their work and the progress achieved so far. The WSIS regional and sub-regional meetings and conferences devoted much attention to this issue and provided input into the WGIG's work. These included the South-East and East Asia Conference on Preparations for WSIS II in Bali, Indonesia, 1-3 February 2005; the African WSIS Regional Conference in Accra, Ghana, 2-4 February 2005; the Arab-African WSIS Conference in Cairo, Egypt, 8-10 May 2005; the WSIS Preparatory Conference for the Asia-Pacific Region in Teheran, Islamic Republic of Iran, 31 May-2 June 2005; the WSIS Preparatory Conference for Latin America and the Caribbean in Rio de Janeiro, Brazil, 8-10 June 2005; and the African Ministerial Conference on Internet Governance in Dakar, Senegal, on 5-6 September 2005. ICANN proved particularly interested in interacting with WGIG and set up special sessions devoted to this issue at all its meetings from July 2004 onwards. These included sessions at the ICANN meetings in Kuala Lumpur, Malaysia, 19-23 July 2004; Cape Town, South Africa, 1-5 December 2004; Mar del Plata, Argentina, 4-8 April 2005; and Luxembourg City, Luxembourg, 11-15 July 2005. The WGIG was well represented at all these meetings.

Other professional bodies such as the Internet Society (ISOC) and the Council of European National Top Level Domain Registries (CENTR) also took up the issue and held various contributory sessions to the ongoing debate. Furthermore, the WGIG process generated interest in the academic community: among others, the Berkman Center for Internet and Society at Harvard Law School, the Oxford Internet Institute, and the Internet Governance Project at Syracuse University all devoted much attention to this issue and held special events. In parallel, the Diplo Foundation developed an innovative programme contributing to capacity building in developing countries.

The WGIG's task was first and foremost a fact-finding mission. It was about looking into how the Internet works, taking stock of who does what, and looking into ways of improving the coordination among and between the different actors. The WGIG presented the result of its findings in a concise report, which addresses the questions raised by the Summit, provides

proposals to improve current Internet governance arrangements and sets priorities for future action. Based on an assessment of what works well and what works less well, the Report proposes a further internationalization of Internet governance arrangements and the creation of a global space for dialogue among all stakeholders to address Internet related issues. It also pays much attention to developmental aspects and sets two overarching objectives for all Internet governance arrangements: to ensure the effective and meaningful participation of all stakeholders from developing countries; and to contribute to the building of capacity in developing countries in terms of knowledge and human, financial and technical resources.

The Report addresses three main questions raised by WSIS. Firstly, it contains a working definition of Internet governance, which reinforces the concept of a multi-stakeholder approach and the need for cooperation between governments, private sector and civil society in Internet governance arrangements. Secondly, it discusses the different roles and responsibilities of the various stakeholders, recognizing that these can vary according to the problems that are being addressed. Thirdly, it identifies key public policy issues that are of relevance to Internet governance and sets priorities and makes recommendations for future action in the following areas: the administration of the root zone files and system; the allocation of domain names; IP addressing; interconnection costs; Internet stability, security and cybercrime; spam; data protection and privacy rights; consumer rights; intellectual property rights; freedom of expression; and multilingualism.

The WGIG also produced a Background Report that includes much of the material produced in the course of its work. It is complementary to the Report and reflects the wide range of opinions held within the group as well as comments made by stakeholders throughout the WGIG process.

The main WGIG legacy is that the process it created was innovative and proved to be a successful experiment in multi-stakeholder cooperation. The WGIG succeeded in creating a space for an issue-oriented policy dialogue on Internet governance in a climate of trust and confidence among all stakeholders concerned. It is to be hoped that this legacy can be translated into a more cooperative approach to Internet governance beyond the Tunis phase of WSIS, involving all stakeholders on an equal footing. The WGIG experience revealed a need for an ongoing dialogue and in this sense it was the beginning of a process that will continue in one way or another. However, it was very specific to the Internet, this network of networks, with its long tradition of bottom-up cooperation and multi-stakeholder involvement. It remains to be seen whether the WGIG experience, as has been advocated by some, can be used for reference in other forums outside the ambit of Internet governance.

