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Working Group on Internet Governance (WGIG)

This PrepCom offers a welcome opportunity to explain the state of play as regards the work on Internet governance and to interact with governments and all stakeholders and receive their inputs. This kind of interaction is an essential ingredient of the mandate of the WGIG: the process will need to be “open and inclusive” and ensure “the full and active participation of governments, the private sector and civil society from both developing and developed countries”. It will be a challenge to live up to these standards, but we are committed to upholding these principles.

The way ahead is short - not much more than a year – and expectations are understandably high. All actors are impatient to get started. Before looking at the way ahead, however, it may be useful to examine the parameters set by the Geneva phase of the WSIS and to remind ourselves from where we have come. There are many delegates in this room who took part in the final phase of the negotiations on Internet governance in Geneva and I welcome their contributions to our discussions and their interpretations of what happened and of what are the results of our negotiations. It is essential that we share a common understanding of these parameters at the beginning of this process.

As we all know, the first phase of the WSIS in Geneva decided to start a broad-based multilateral process on Internet governance. To this end it requested the Secretary-General of the United Nations to set up a Working Group with the task “to investigate and make proposals for action, as appropriate, on the governance of Internet”. The Working Group is to report to the second phase of the Summit in Tunis in November 2005.

First of all, it may be helpful to assess the result. As so often, we can ask the question whether the glass was half full or half empty. In my humble opinion, some critics of the Geneva Summit were wrong when they said that WSIS had been unable to reach an agreement. They simply failed to grasp the significance of this decision. On the contrary, it can be considered a major breakthrough, as only a few months prior to the Summit there were two firmly entrenched positions, namely those who wanted Internet Governance to be brought under the umbrella of the UN and those who said there was nothing to be discussed. All in all, the decision taken was a significant outcome of the Geneva Summit. The international community has placed a new issue on the agenda of multilateral co-operation.

Of course the result of the first phase of the Summit was a compromise; and a compromise never pleases everybody. For some it goes too far while for others not far enough. However, in this case all parties to the negotiations seemed to have found what they had been looking for.

This *problematique* also needs to be seen in the context of discussions on global governance. The Summit agreed on no more, and no less, than the need to adapt traditional models of

governance to the needs of the 21st Century and find new forms of cooperation which allow for the full and active participation of all stakeholders.

By recognizing some important principles, the Geneva Declaration laid the conceptual groundwork for any future form of Internet Governance and set some valid benchmarks for the work ahead of us. They are based on some traditional principles of international co-operation, such as transparency and democracy. They also introduce some Internet-specific aspects, such as the recognition that the Internet is, by now, a global facility. Furthermore they recognize the multi-stakeholder character of the Internet.

In order to situate this process it might also be useful to remind ourselves of the main concerns that were expressed during the negotiations. In particular, there were two schools of thought that manifested themselves in the WSIS negotiations: those calling for multilateral cooperation within the UN framework and those who are happy with the *status quo*.

Let me briefly sum up the reasoning behind these two schools of thought:

- The first group argued that, at national level, governments played a role and that they had a platform for a dialogue with the various stakeholders. They pointed out that, at the international level, however there was no such forum for interaction. They stressed the need for establishing a multilateral mechanism, preferably with the legitimacy of the UN system. This would not replace any existing mechanism, nor infringe on the work of any existing organisation, but would be complementary and deal with policy issues. Furthermore, these delegations felt that Internet governance related to national sovereignty.
- The other group highlighted that the present system worked well and - before trying to solve a problem - it would be necessary to know what the problems were that needed to be addressed. Their message was "if it ain't broke don't fix it". On the whole, these delegations insisted on the importance of full and active involvement of the private sector and all stakeholders.

This outcome addresses the needs of both groups: it takes care of those governments who are trying to find their role in this new policy environment and it respects the views of those who emphasized the importance of civil society and private sector.

In Geneva we accepted that there was a role for governments, but we were not really ready to discuss what we meant with these "public policy issues", in particular we were unable to spell out whether we were thinking about a narrow, technical definition, or whether we were referring to a broad definition, including issues such as network security, intellectual property rights, consumer and data protection, spam or multilingualism. All these issues are listed in both the Declaration of Principles and the Plan of Action. They are considered by many as falling under the term "Internet governance." It will be up to the WGIG to decide on the scope of its mandate. But of course we need to be thinking about the possible scope of the mandate when proposing the members of the WGIG.

The two documents adopted in Geneva set the parameters for the Working Group and contain its Terms of Reference. The WGIG is asked *inter alia* to deal with the following issues:

- (a) Develop a working definition of Internet Governance;
- (b) Identify the public policy issues that are relevant to Internet Governance;

- (c) Develop a common understanding of the respective roles and responsibilities of governments, existing international organizations and other forums as well as the private sector and civil society from both developing and developed countries.

Like any negotiated text, these documents are also open to interpretation. In this case, the agreed text points towards an open concept which does not prejudge anything. It is 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. This is a very sensible outcome. It makes sense to gather the facts first and then to try to agree on definitions before taking any possible decision on the future of the Internet. Furthermore, we have to recognize that the Internet on the whole functions well and that we need to be careful should we introduce any changes.

The two Geneva documents attach as much importance to the process as to the substance under discussion. They stress, as already mentioned, that the process should be “open and inclusive” and ensure the full and active participation of governments and all stakeholders.

The modalities of the process ahead of us will therefore be important. They were very much at the centre of our negotiations. Drawing on this experience, I can read out of the documents the following three process-related priorities:

- Firstly, it was not possible to agree on any one single organization that would be in charge. This is the reason why the Summit asked the Secretary-General of the United Nations to set up a working group to deal with the issue. The institutional independence of the working group is therefore a crucial element of the process.
- Secondly, equally important is the open and inclusive character of the group. The qualifier "open and inclusive" has two aspects, one of them concerns the stakeholders and the other one the governments:
 - The issue of stakeholder participation was one of the reasons why an original proposal - that is to set up a working group as part of the WSIS process – was not accepted. It was felt by a significant number of key players that the WSIS process had not proved satisfactory with regard to the inclusion of private sector and civil society. It was hoped that the formula finally agreed on would give sufficient flexibility to be more inclusive. The multi-stakeholder nature of the UN ICT Task Force was specifically mentioned as a possible model in this regard. Whatever the format, all stakeholders and all relevant intergovernmental and other international organisations will have to be given equal access to the work of the group.
 - Furthermore, throughout the WSIS process we had a strong emphasis on open-ended meetings. This Working Group will be different. It is not a negotiating group, but a group with the task of gathering facts and drafting a report with recommendations for possible solutions. For efficiency's sake it seems therefore obvious that its membership will have to be limited. There is however a need for a compromise between efficiency and legitimacy. The working group will need to be sufficiently representative with regard to its governmental as well as stakeholder members. However it will also need to interact with all governments and stakeholders in an open-ended mode. We therefore will need a two-tier system to respect the spirit and the letter of the Geneva Documents and alternate between closed meetings of the WGIG and open-ended consultations. This

system can be supplemented by additional meeting and special advisers who are respected in their various fields of activity.

- Thirdly, developing countries need to be given the possibility of making their voice heard. Their full and meaningful participation in this process will be essential. This of course involves travelling costs, but not only that. There is also a need for efforts aimed at capacity building among developing countries, to allow them to defend their interests effectively.

We need to make sure that the process leading to Tunis reflects these priorities.

There is no existing structure within the United Nations equipped to carry out this task, nor are there are budgetary resources available to finance the activities related to the WGIG. That is why the Secretary-General of the United Nations decided to set up a Secretariat that would have as its principal mandate to provide support to him in order to establish the WGIG and to provide substantive, organizational and administrative support to the Working Group in preparing its report and recommendations to. The UN is setting up a Trust Fund to finance this process, and is calling for voluntary contributions to this Trust Fund. It is hoped that not only traditional donors will contribute, but also non-traditional donors, as well as the private sector. This would broaden the political ownership of the process.

Time is short and the lifespan of the Secretariat, as well as the Working Group, will be very limited. We thought therefore it would be best to build up both the Secretariat and the Working Group simultaneously. It is hoped that other UN agencies and other relevant international organizations will second staff for this task. One of our aims is to make sure that the Secretariat will also include staff from developing countries.

At this stage, the tentative road map on the way to Tunis foresees the following three main phases:

- During a first preparatory phase, both the Secretariat and the WGIG will need to be set up. The Secretariat is expected to start functioning as a small core group as from July. It will gradually be completed and should be fully operational by October 2004. Its first activity will be to assist the Secretary-General with the appointment of the Chairperson and the other members of the WGIG. To this end we will need to hold consultations on the composition of the WGIG, the profile of its members, and on how best to structure its work. An important aspect of the WGIG will be its balanced composition. There is a need for balance among the regions, but also among the stakeholders and last but not least we will have to aim at gender balance. An open-ended round of consultations should be held in September to discuss these issues and the composition of the WGIG should be completed by October 2004.
- The second phase will begin in November, once the WGIG is appointed and the Secretariat is operational. It will be devoted to the implementation of the mandate set out by the Summit and prepare a report as its main output. The WGIG will set its own agenda and time-table. Three or four three-day meetings of the WGIG will probably be needed. In between, the WGIG will hold consultations with all governments and stakeholders in an open-ended mode. Two or three rounds of consultations could be sufficient. A first meeting of the WGIG in November or December 2004 will be devoted to the organization of its work. The WGIG may wish to make use of the gathering of all key players during the second PrepCom and hold an open-ended round of fact-finding consultations back-to-back to the PrepCom. A further round of open-ended consultations

could be held in April or May, before completion of its report. Furthermore, the WGIG may wish to set up an advisory board of eminent persons and draw on selected resource persons and advisers as well as on regional or thematic meetings and workshops. In addition, the Secretariat will stand ready to brief interested parties on the progress of the work, and, hopefully, also the members of the WGIG will find time to do so. As agreed informally in Geneva, the report should be issued no later than July 2005 to give governments sufficient time to study its content.

- The third phase will begin after the publication of the report. As there would be no further meeting activities of the WGIG the Secretariat will be scaled down gradually. The WGIG and a core group of Secretariat members will accompany the process until the Tunis Summit and explain the report and its recommendations to all stakeholders. Hopefully, the members of the WGIG will carry their respective constituencies in order to facilitate the negotiations at the third and final PrepCom in September 2005.

We are at the beginning of our work and we need to get the modalities right before starting the substantive work of the Working Group. The next steps therefore are important. We will have to consult widely on the composition and structure of the WGIG as well as on the profile of its members. This process has started and I am looking forward to listening to all stakeholders and receiving their input. It will be key to the success of the work ahead to make sure that all governments and major stakeholders feel themselves represented by the WGIG. It seems clear that the WGIG can only be successful if all stakeholders will recognize themselves in its composition and, ultimately, in its final report.