

Comments from the Association for Progressive Communications at the commencement of the second Internet Governance Forum

10 November 2007, Rio de Janeiro

The first IGF in Athens

The WSIS Tunis outcome documents left the IGF with a broad mandate, which could have been exercised in many different ways, with varying degrees of formality, participation and originality. The IGF organisers made a number of critical choices about style, content, programme and nature of the Forum. On balance, we believe their choices for the first meeting to have been broadly successful. Unlike WSIS, the meeting exceeded the expectations of most of those who took part.

In overall terms, participants clearly felt that the first IGF was a success. By the end of the meeting, very few participants were talking of it with the kind of cynicism that had been so prevalent in WSIS and is prevalent in many UN fora. Almost everyone present seemed to feel that they had gained personally from the Forum - in understanding, in networking, in ideas. This was true across the stakeholder spectrum. This is a major achievement for the IGF and its organisers.

The IGF had less impact on the outside world. It was not particularly widely reported in the media, and much of the reporting that did occur saw it as a continuation of the WSIS debates about "who runs the Internet" rather than as the much broader event that actually took place. However, as WSIS demonstrated, improving understanding of Internet issues is a long-term and continuous process, not something that can be achieved overnight. The first IGF contributed here, and future IGFs may be able to do more.

Whose culture?

To be successful, the IGF needed to draw on two cultures - the formal culture of the UN system and the informal culture of the Internet. Only by balancing these two cultures could the IGF attract the support and participation - as importantly, the *positive* participation - of the necessary range of participants. That range included key authority figures in IGOs, governments and the Internet community, and those with expertise across the board.

In practice, the IGF adopted much more of the Internet community's informality than of the UN system's formalism. Nevertheless, sufficient participation was achieved (numbers certainly exceeded expectations) and the relatively informal and egalitarian character of the IGF were generally (if not universally) felt appropriate and useful. These should be maintained into the future.

Participation

The IGF was held under UN auspices, but was most unlike a UN meeting. In other UN fora (including WSIS), participants are continually reminded of their status within the meeting - as insiders (government delegates or representatives of IGOs) or outsiders (private sector and civil society). There was no discrimination between participants according to status or stakeholder group in the IGF. Not only were there no arguments about who was entitled to speak where or when, it was clear that

participants - from all stakeholder groups - would have regarded any such arguments as both improper and unfounded.

This contributed to a much more open environment for discussion. Participants were listened to on their merits, because of the quality of what they had to say rather than whom they represented. In turn, participants had to listen to what others were saying, rather than making assumptions based on who they were and/or relying on their own delegation's previously-adopted decisions to decide their point of view. Those who merely came to listen, rather than to speak, learned far more than they would otherwise have done from the openness of discussion that resulted and the priority this placed on quality of knowledge, thought and engagement with ongoing debate.

It is interesting to note that the arguments about multi-stakeholder participation in WSIS were essentially about the representation of groups (the private sector, civil society), whereas the implementation of multi-stakeholder participation in the IGF was achieved essentially by giving individuals, not groups, equal status. (The one exception to this, concerning the organisation of workshops, is discussed below.) This emphasis on the equality of individuals irrespective of origin was much more successful in encouraging debate and dialogue than the alternative, of entrenching different stakeholder positions within the structure of the Forum, would have been. It should be continued into the future.

This otherwise excellent level of participation at the Athens forum was marred by two factors: firstly, the lack of gender balance, and, secondly, the lack of financial support for the many key stakeholders who do not have the resources needed to be there. This needs to be addressed, in particular at the level of identifying speakers for plenary panels and workshops. The current system of only selecting speakers from among people who are able to pay their own way to a Forum, or who manage get there through institutional backing, is bound to result in serious gaps in the diversity and knowledge and experience represented on the panels.

Content

There was much discussion at and after WSIS about whether the IGF should cover a broad range of issues in its first meeting or focus on a narrow range of issues requiring concerted action. There could have been advantages in either approach. In practice, the IGF chose to work on a broad canvas, and we believe this judgement to have been validated by experience. A narrow subject range would have reduced the numbers participating and increased the risk of polarisation within the Forum. That would more likely have undermined than helped establish it for the future. A broad subject range - one which really made the Forum one on "Internet Issues" or "Internet Policy" rather than "Internet Governance" - gave it the right scope to encourage participation at varying levels of expertise and the right balance between Internet-specific issues and those which concern intersections between the Internet and other areas of social, economic and political debate/governance.

Discourse

The quality of discourse at the IGF was significantly higher than in most comparable international events. By "discourse", here, is meant not technical sophistication - though there was plenty of that, and more, certainly, than in WSIS PrepComs - but the quality and sophistication of thought, of debate, and of linkages made between issues. Three points are worth making:

- Firstly, there was much less posturing and position-taking than in other international fora. As one IGO representative put it privately to an APC delegate, "no-one is talking in code." People said what they thought and argued their case.
- Secondly, people were prepared to listen to one another and to learn from others' experience. Many people felt at the end that they left the Forum knowing more than when they arrived - knowing more, that is, about the issues *and*, most importantly, knowing more about others' perspectives and why they hold them.¹ This is not a common feeling at the end of international meetings, and it is one of the great virtues of multi-stakeholder engagement.
- Thirdly, those who sought to get the IGF to adopt firm positions - to make policy choices that were outside its remit - got short shrift. Participants understood that the value of the IGF did not lie in seeking to exceed its authority, but in building an informed and inclusive community of people engaged with Internet issues. This is what could establish the Forum's credibility for the future.

This higher-than-expected quality of discourse resulted primarily from factors that have already been discussed: that all participants had equal status; that the content of plenary sessions was moderated innovatively in the manner of radio discussion rather than through the formalism of conventional international meetings.

Above all, it was because there was no final communiqué at the end of the meeting whose text had to be argued over word by word. Some have questioned the value of the IGF because it lacks decision-making powers. But that does not mean it lacks the power to influence decisions. Experience of the first meeting suggests that, in fact, its greatest value may lie in this very lack of decision-making powers – for it is this that enables it to provide an environment in which people can share experiences and ideas, learn about issues with which they are less familiar, gain understanding of each others' perspectives and explore partnerships with those outside the comfort zone of their own ideological or professional communities.

The second IGF in Rio de Janeiro

A quick glance at the topics, organizations and people involved in organizing the workshops on the five broad themes chosen for 2007 as well as best practice forums and open fora shows a very interesting picture of the IGF as a space for policy dialogue.

Every current policy issue that one can think of is covered across the 75 sub-events. Some of the workshops raise questions for which answers may emerge. Others will sharpen participants' understanding of the complexities of the policy issue involved for which there are no simple solutions. The workshops are all self-organised by stakeholders from governments, civil society, academia, the private sector, the internet technical community and international organizations. That one can see the full spectrum of policy issues being engaged is an organic development which bodes very well for the quality of policy dialogue that the IGF will produce. It is also a sign

¹ An example of this was a discussion on how to deal pornographic content between a cyber security expert from the police force of a powerful European country and anti-censorship feminists at a workshop on content control convened by the APC's women's networking support programme

of the serious commitment stakeholders are making to the success of the IGF as a space for policy dialogue, whatever the extent or nature of policy differences between them. Yet, adhering to the MSP principle in organising sub-events is complex and should not be underestimated.

It also appears that participation will be more diverse and it is worth noting the significantly increased presence of the African internet community. This is clearly the result of the preparatory work they engaged in during the last year and proves the value of relating to the IGF as a process that consists of much more than just an annual event.

One cause for concern is the lack of priority given to the right to privacy in the treatment of the security theme. If this is an indicator of decreasing the emphasis on fundamental rights, it could undermine the legitimacy of the IGF in the longer term.

But in general the prognosis is very good for the Rio meeting to succeed as a non-threatening space for policy dialogue that allows participants from different stakeholder groups with different priorities to not only reach common understanding of internet governance issues, but to also have a clearer understanding of divergences in views. In this way the IGF can exercise soft power over internet policy issues on the basis that debate can create better and more sophisticated understanding which in turn can indirectly influence the way in which institutions responsible for internet governance make decisions.

The road to Rio

Preparations for the IGF meeting in Rio de Janeiro on 12-15 November 2007 took place in three open consultation meetings in Geneva in February, May and September. The Multi-stakeholder Advisory Body (MAG) which assists the Chairperson Nitin Desai and the Secretariat led by Markus Kummer met after each consultation meeting. However the MAG was only formally constituted by the UN Secretary General, Ban Ki Moon, just prior to the September meeting.

The consultations are notable for three reasons:

- The issue of the management of critical internet resources (CIR) surfaced as an issue that developing country governments and civil society groups wanted to place on the agenda of the Rio meeting.
- Civil society groups including APC placed a focus on the mandate and assessment/review of the IGF in terms of section 72 and 73 of the Tunis Agenda on the Information Society.

Critical Internet Resources

Internet governance has usually been associated with the management of the Domain Name System and IP addresses administered by ICANN. But during the World Summit on the Information Society, the Working Group on Internet Governance defined internet governance as:

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.*²

In this definition, internet governance includes more than internet names and addresses: it also includes other significant public policy issues, such as critical Internet resources, the security and safety of the Internet, and developmental aspects and issues pertaining to the use of the Internet. The practice of internet governance also involves a range of stakeholders from government, the private sector, the internet and technical community and civil society.

The WGIG described these four broad public policy spaces as follows:

- (a) Issues relating to infrastructure and the management of critical Internet resources, including administration of the domain name system and Internet protocol addresses (IP addresses), administration of the root server system, technical standards, peering and interconnection, telecommunications infrastructure, including innovative and convergent technologies, as well as multilingualization.
- (b) Issues relating to the use of the Internet, including spam, network security and cybercrime.
- (c) Issues that are relevant to the Internet but have an impact much wider than the Internet, such as intellectual property rights (IPRs), freedom of expression, privacy or international trade.
- (d) Issues relating to the developmental aspects of Internet governance, in particular capacity-building in developing countries.³

However the first IGF meeting in Athens in 2006 divided internet governance into four broad themes: access, openness, diversity and security. And, at an over-arching level it selected 'Internet Governance for Development' as a focus area.

In the 2007 IGF consultations a number of developing country governments such as Brazil and China formally requested that the issue of critical internet resources be placed on the Rio agenda. The civil society Internet Governance Caucus in which APC participates proposed that issues of internet public policy be on the agenda. One of the background reasons for proposing this was that the process of 'enhanced co-operation' on developing a set of public policy principles for the management of critical internet resources⁴ that the UN Secretary General was supposed to initiate by the end of the first quarter of 2006 had not been done.

There was also the issue of how ICANN had handled the issue of the .xxx domain during the first half of 2007. In ICANN's rejection of the application for a .xxx domain, it appeared that ICANN had bowed to political pressure from governments. Some civil society groups felt this showed a certain arbitrariness in ICANN's decision-making procedures as well as an encroachment by ICANN into determining a matter of public policy in the absence of any mechanism or any public policy principles to govern such a decision (particularly as the Tunis Agenda had recommended a procedure for determining such public policy principle in the form of the 'enhanced cooperation' process).

² WGIG Report, p4 <http://www.wgig.org/WGIG-Report.html>

³ Ibid, p5

⁴ Tunis Agenda for the Information Society, paragraphs 69 - 71

Developed country governments, the private sector and the Internet technical community (ICANN, ISOC) were less than enthusiastic about placing CIR on the IGF agenda. In the event, the IGF Chairperson decided to place CIR on the agenda as a fifth broad theme. CIR in this IGF context refers to the administration of the domain name system and Internet protocol addresses (IP addresses), administration of the root server system, technical standards, innovative and convergent technologies, as well as multilingualization, rather than to the issue of telecommunications infrastructure, peering and interconnection which falls under the access theme.

The Mandate of the IGF

During the consultations, APC raised a concern that the proposed programme and schedule for the Rio IGF meeting did not fully deal with the specific requirements of paragraph 72 of the Tunis Agenda⁵ which lays out the IGF's mandate.

Policy dialogue on the four themes satisfies the broad mandate of the IGF to provide a forum for multi-stakeholder dialogue, and to a certain extent, the requirement of paragraph 72.a in that security and development of the Internet are addressed as a broad theme for policy dialogue.

⁵**72. We ask the UN Secretary-General**, in an open and inclusive process, to convene, by the second quarter of 2006, a meeting of the new forum for multi-stakeholder policy dialogue—called the *Internet Governance Forum* (IGF). The mandate of the Forum is to:

- a. Discuss public policy issues related to key elements of Internet governance in order to foster the sustainability, robustness, security, stability and development of the Internet;
- b. Facilitate discourse between bodies dealing with different cross-cutting international public policies regarding the Internet and discuss issues that do not fall within the scope of any existing body;
- c. Interface with appropriate inter-governmental organizations and other institutions on matters under their purview;
- d. Facilitate the exchange of information and best practices, and in this regard make full use of the expertise of the academic, scientific and technical communities;
- e. Advise all stakeholders in proposing ways and means to accelerate the availability and affordability of the Internet in the developing world;
- f. Strengthen and enhance the engagement of stakeholders in existing and/or future Internet governance mechanisms, particularly those from developing countries;
- g. Identify emerging issues, bring them to the attention of the relevant bodies and the general public, and, where appropriate, make recommendations;
- h. Contribute to capacity building for Internet governance in developing countries, drawing fully on local sources of knowledge and expertise;
- i. Promote and assess, on an ongoing basis, the embodiment of WSIS principles in Internet governance processes;
- j. Discuss, *inter alia*, issues relating to critical Internet resources;
- k. Help to find solutions to the issues arising from the use and misuse of the Internet, of particular concern to everyday users;
- l. Publish its proceedings.

As an organisation concerned with the issue of access, APC raised the question of how paragraph 72 (e), which says that, "The IGF should advise all stakeholders in proposing ways and means to accelerate the availability and affordability of the Internet in the developing world." could be put in to practice by the IGF. The function of providing advice goes beyond holding a policy debate on the issue. APC argued that while there should be debate and dialogue in the workshops on access, there should also be some attempt to move beyond dialogue, towards the requirement in the IGF mandate to produce advice on access, in a global context in which five billion people do not have access to the internet.

This issue was also taken up by various stake-holders including the government of Brazil which proposed that the IGF produce a set of recommendations and civil society activists who proposed that the IGF compose a message to send to the world from the Rio meeting. This issue was also controversial leading to a similar spilt among stakeholders as the issue of CIR. The IGF chairperson ruled that there would be no formal set of recommendations from the IGF meeting, and any summing up of the meeting would be done in the reports on the workshops and in his closing remarks at the end of the meeting – the 'Taking Stock and Way Forward' session.

Controversy around this ruling increased at the September consultations when Brazil proposed that as host, it should co-chair the Rio meeting. After much debate this was accepted amid concerns that the Brazilian government would seek to use its Co-chair's closing statement in the 'Taking Stock and Way Forward' to make a set of recommendations on the meeting's outcomes.

The road from Rio

APC continues to believe that the IGF is one of the most significant and innovative public policy spaces to emerge in the new millennium. We believe that the current format that maximises learning and dialogue should continue.

However, if it is to grow its legitimacy and continue to be innovative it needs to be able to consistently create spaces for addressing controversial issues and find a way to ensure that some effective follow up on issues discussed at the IGF that are of common concern, and that require further exploration and intervention does take place in practice. It is in the light of this that APC submits the following concrete suggestions for consideration by participants in the 2nd IGF:

Convene 'IGF Working Groups': APC recommends that the IGF uses the format of the WGIG, or bodies such as the IETF (Internet Engineering Task Force) to convene working groups to address controversial or particularly complex issues that emerge during a forum. These groups can be made up of individuals with the necessary expertise, and drawn from different stakeholder groups. These groups can then engage specific issues in greater depth, and, if they feel it is required, develop recommendations that can be communicated to the internet community at large, or addressed to specific institutions. They can present reports at the subsequent IGF.

Should concrete proposals emerge from such IGF working groups, they need not be presented as recommendations from the IGF, but as suggestions for action from the individuals in the Working Group. We are not suggesting that the IGF itself should adopt any final communiqué at its annual meeting that would require any form of negotiations between stakeholders. Suggestions emerging from IGF working groups

should help inform and sharpen debate at the annual IGF meetings and form part of the soft power of the IGF.

Strengthen National and Regional Preparatory Processes: As pointed out in the case of Africa, preparatory events at regional level has resulted in increased participation in the forum. But such processes can also support better understanding and participation at national level and ensure that what is prioritised at the global forum is informed by practice and learning on the ground⁶.

Address the need for financial support for participation: To facilitate effective and diverse participation a mechanism should be established to provide financial support for the many individuals and institutions from civil society, small business and in some cases governments, who cannot afford to attend. There are many ways of doing this. We proposed that an IGF Working Group is convened to make creative suggestions for addressing this challenge.

Establish a self-regulatory mechanism to ensure participation, access to information and transparency in internet governance: APC recommends that a mechanism is created to ensure that all the institutions which play a role in some aspect of governing the internet (broadly defined) commit to ensuring transparency, public participation, including participation of all stakeholders, and access to information in their activities.

We believe that the United Nations Economic Commission for Europe's Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, usually known as the Aarhus Convention, is a prototype of such a mechanism. It is designed to admit as signatories, both governments and inter-governmental institutions, as well as other types of institutions. It has a simple mechanism for dealing with complaints, as well an information clearing house. It firmly establishes access to information, transparency and participation in governance processes as a shared value, and supports institutions in implementing the convention.⁷

We believe that is a particularly valuable model for the internet governance community because transparency, participation and access to information, and accountability are the cornerstones of good governance.

Moreover it is a framework that can underpin other processes and even support them, without replacing any existing institutional configuration or policies or regulations.

Like the IGF, it can constitute a non-threatening platform for progress and positive change and can be established as a self-regulatory mechanism. Institutions which want to demonstrate their commitment to being transparent, inclusive and accountable, can become signatories.

⁶ APC had the privilege of participating in two preparatory processes. The process convened by the Government of Brazil, through our member Rits (www.rits.org.br), and through APC staff, the process convened by Nominet (the UK registry for Internet names) in the United Kingdom. The latter process brought together members of parliament, government officials, large and small ICT businesses, civil society and the technical community to explore the relevance of the IGF themes in the UK context, and, through the mechanism of best practice challenge, succeeded in showcasing innovation at the national level. <http://www.nominetnews.org.uk/main/2007/08/nominet-launches-best-practice-challenge-2007/>

⁷ http://en.wikipedia.org/wiki/Aarhus_Convention, <http://www.unece.org/env/pp/>

Effectively resource the IGF secretariat: We want to express our admiration of Markus Kummer and his team for accomplishing so much with so little human and financial resources. We recognise the extensive investment made by the government of Brazil, and also by the previous host country, Greece, as well as other contributions made by governments, sponsors and donors. However, if the IGF is to continue to succeed and make further strides in fulfilling its mandate, the secretariat needs to be properly resourced.

Increase participation in agenda setting: We suggest that the IGF secretariat and the MAG convenes working groups for each of the main themes of the next forum to help shape the agenda and identify speakers well in advance of the event. These groups can assist the MAG and the secretariat to address gender balance and diversity in the composition of the panels.

In conclusion, we wish the host government, the IGF secretariat and its chairperson, and all participants, a positive and inspiring event.

*The Association for Progressive Communications
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