Searching for Consensus

Asko Numminen
Ambassador, Ministry for Foreign Affairs of Finland

The Geneva phase of the WSIS was a historic event. It raised the Information Society to the highest political level on the agenda of the United Nations and increased awareness of the potential of new technology for human development. The political leaders of the world committed themselves to create a people-centred, inclusive and development-oriented Information Society based on common principles and agreed upon joint action to achieve these goals.

The preparatory process of the Geneva phase was difficult for many reasons. When the idea of WSIS was originally invented in ITU, the Information Society was approached from a rather technology-centred perspective. During the preparatory process it became evident that the approach to the Information Society had to be more comprehensive and social. The Summit also had to address the fundamental values of the Information Society and take position on the importance of human rights and freedom of expression. These questions have never been easy in the United Nations context.

WSIS is a summit to consider how new technology can be used as a tool for development. The developing countries made a strong call for development-orientation – action to bridge digital divide and action to have benefits for all. These objectives were fully justified and shared by all parties and, in fact, these were the main motives to organize the Summit. But, as often, positions differed on the best ways and means to achieve these goals, and this often lead to traditional North-South controversies which had to be accommodated in the negotiations.

The Information Society is a new theme on the United Nations agenda. Diplomats who negotiated for their governments had to learn completely new concepts which, earlier, were only known to the professionals in ICT. Occasionally the sessions of preparatory committee

looked more like academic seminars where the basic meaning of new issues like "Internet governance", "spam", "open source software", "radio frequency spectrum" and "technological neutrality" had to be clarified. The negotiators of the final documents of the Summit had to go through an extensive learning process. These new concepts caused uncertainty and sometimes lack of mutual trust, especially in the beginning of the process. There were many problems for which the existing United Nations documents could not offer a precedent.

WSIS has been a unique process in involving all stakeholders, governments, business community and civil society whose contribution to the Information Society is indispensable. This inclusive character of the preparatory process has enriched the dialogue and contributed positively to the progress. On the other hand, the huge number of different contributions caused new challenges for the preparations. After the second preparatory meeting, the WSIS Secretariat had 800 pages of contributions for the Plan of Action. Condensing this vast material into a negotiable draft without losing the essential content was an immense task. Moreover, especially during the two first meetings of the Preparatory Committee (Prepcom), participation of the NGO-stakeholders created many procedural problems since according to the traditional United Nations rules, negotiations take place between the Governments only. New modalities had to be found in order to respect these rules and, on the other hand, to allow maximum participation by all stakeholders whose role is vital in building an inclusive Information Society.

The third, and, as originally planned the last, session of the Prepcom in September 2003 was in fact the first formal Preparatory Committee to focus really on substance. The preparations were under heavy time pressure.

It was clear that this immense task could not be done in two weeks in September. The work had to be continued firstly in informal consultations in Geneva and thereafter formally in the resumed sessions of Prepcom on 10-14 November and on 5-6 December 2003. The decision to convene the resumed session in November was made "subject to the availability of resources". Unlike the other United Nations summits, WSIS preparations rely on voluntary contributions and in September 2003 nobody could guarantee that the costs of the resumed meeting could be covered. WSIS Prepcom did not only work under time pressure – financial pressure was also heavy.

It was also evident that the most difficult political issues could only be resolved at the latest stage right before the Summit itself. And late it happened. The last open paragraph on the financial mechanisms of the Digital Solidarity Agenda was adopted on 9 December so late that the United Nations interpreters had already left the meeting. The interpretation was

provided by the members of the Swiss delegation. In this respect the WSIS made also history in the United Nations.

In the September meeting of the Prepcom 3, Ms Lyndall Shope-Mafole of South Africa continued her able role as the facilitator on the Declaration of Principles. As the Chairman of Sub-Committee 2, I was able to concentrate on the Plan of Action.

The main tasks were quite clear on the Plan of Action:

- to create and maintain a constructive negotiating atmosphere and a will for consensus;

- to ensure that the Plan of Action is fully in line with and complementary to the Declaration of Principles;

- to produce a negotiable, well-structured draft Plan of Action with as much agreed text as possible; and

- to ensure that the search for consensus will continue in informal consultations and in the formal resumed sessions of the Prepcom 3 on the best possible basis.

In order to produce a negotiable draft of the Plan of Action, the Sub-Committee had to first have an open discussion of the document prepared by the Executive Secretariat based on numerous written contributions. This general debate took several days of the first week and it required a lot of patience when the meeting already was working under heavy time pressure. But it was an absolutely necessary part of the process without which the next crucial step – creation of Chairman's streamlined draft – would not have been possible. The substantive issues had to go through the "intergovernmental filter" – a term which was invented by the first Chairman of Sub-Committee 2, Ambassador Pablo Macedo of Mexico.

The next step was taken during the weekend when the Finnish delegation and some able members of the Secretariat withdrew to the ITU building, worked together 24 hours and prepared the Chairman's new text based on all the contributions. The new draft was accepted as the new basis for negotiations.

The negotiations on the Chairman's draft were divided into smaller groups led by the following countries

1. Financing (Sweden)

2.   Media (Switzerland)

3.   Security (Italy for the European Union)

4.   Capacity-building (Costa Rica)

5.   Enabling environment (Brazil)

6.   Access to Information (Kenya)

7.   ICT applications (Egypt)

8.   Infrastructure (Saudi Arabia)

9.   Cultural diversity (Argentina)

The work in sub-groups was important for efficient use of time available and also for creating the common will for consensus. Responsibility for, and ownership of, the progress was shared by all.

The Friends of the Chair negotiated texts for the introduction, objectives, international and regional cooperation and the follow-up, and integrated the outcomes from the sub-groups into the overall text. This negotiating machinery brought about the fundamental building blocks of the Plan of Action which was the main result of the Prepcom 3.

The objectives of the Plan of Action were linked to the development goals of the Millennium Declaration to be achieved by 2015. By that year more than half of the world's inhabitants should be ICT-connected. The operative action lines were structured according to the eleven key principles. The Digital Solidarity Agenda emerged as a response to the call by the developing world to bridge the digital divide.

While progress was made on the Plan of Action, difficulties mounted on the Declaration of Principles. After the September meeting the main attention had to be focused on this key document which would contain the political message from the Heads of State and Government.

The outstanding issues of the Declaration were subject to informal consultations lead by the Chairman of Sub-Committee 2 on 20 and 30-31 of October. The purpose of these consultations was to identify the main difficulties, seek possible solutions and further build up the spirit of cooperation and will to compromise. The consultations demonstrated a genuine desire by all sides to make progress and compromise. Small working groups

produced important elements for possible agreements and strengthened mutual confidence and understanding.

Informal consultations were not formal negotiations. However, they were supposed to offer solutions on how the outstanding issues should be resolved. The Chair's task was to arrive at the common elements of consensus and to find the right modality to work it out, for example:

- the problem is a matter of language: the Chair will draft a proposal

- the problem is not a new one in the United Nations: let's seek a precedent

- the problem is one where ICT expertise is needed: let's ask advice and language from the ITU

- the problem is a matter of balanced substance: let's form a small group to strike the balance

- the problem is impossible to be resolved at this stage: let's leave it for the final stage.

As a result of these consultations, the President of the Preparatory Committee, Mr. Adama Samassékou, distributed a new non-paper on 24 October. This document was an important step forward in shaping the final form of the Declaration. It served as a basis of discussion in the further informal consultations on 30-31 October. These consultations turned out to be a drafting exercise. Thereafter new small informal groups were convened in Geneva to advance consensus: Internet Governance (chaired by Italy), Cultural and Linguistic Diversity (Egypt), Human Rights (Canada), Intellectual Property Rights (Brazil), Security (Russia) and Financing (Sweden).

As an outcome of this process a new draft was prepared in the name of President Samassékou, and it was accepted as the formal basis for negotiations in the resumed session of Prepcom 3 in November. Some important substantive issues had to be left pending but the work of this informal phase was highly successful. The formal negotiations could be started on a new and well balanced draft which already contained a lot of agreed language.

The resumed session of Prepcom 3 had a clear task: to clean the table for the final negotiating package by producing as much as possible agreed texts on the Declaration and Plan of Action. The outstanding issues had to be limited to the minimum for the final end-game under the leadership of the host country Switzerland. In a positive atmosphere

important progress was made. About 80% of the content of the final documents were agreed upon. The following main issues had to be left to the final negotiations:

- Freedom of expression and the role of media in the Information Society

The last difficulty was how to refer to the right to freedom of opinion and expression as an essential foundation of the Information Society and specifically to the Article 19 and 29 of the Universal Declaration of Human Rights. Moreover, the freedom of the press and the independence, pluralism and diversity of media in the Information Society were matters which had to be left for the late round of negotiations.

- Financial mechanisms to bridge the digital divide, including the Digital Solidarity Fund

There was a consensus on many important points of the Digital Solidarity Agenda, including on the creation of enabling environment to attract private investments, on the Official Development Assistance and on the outstanding indebtedness. However, there was no consensus on the creation of a voluntary Digital Solidarity Fund.

- Internet governance

Gradually an agreement emerged on the general requirements for the international management of the Internet. It should be multilateral, transparent and democratic, with the full involvement of governments, private sector, civil society and international organizations. It should also ensure an equitable distribution of resources, facilitate access for all and ensure a stable and secure functioning of the Internet, taking into account multilingualism. Nevertheless, no consensus was reached on the institutional basis for further development of Internet governance.

- Information and network security

Importance of the confidence and security in the use of ICTs was stressed by all, and a consensus was reached on the need to promote a global culture of cyber-security in cooperation with all stakeholders. Difficulties concerned the balance between measures to increase information and network security and the need to ensure the free flow of information. Similarly, a balance had to be found on the necessity to prevent the use of information resources and technologies for criminal and terrorist purposes and the need to respect human rights.

- Intellectual property rights

It was extremely difficult to find an agreed text which would balance the importance of the intellectual property protection to encourage innovation and creativity and the importance of wide dissemination, diffusion and sharing knowledge in the Information Society.

WSIS is a summit in two phases. Both phases are equally important with different focus. Geneva was a summit to agree on the fundamental principles of the Information Society and on general action lines to turn these principles into a reality. Tunis will focus on more concrete action for implementation and follow-up. Hopefully, Tunis will also resolve those two major issues which were left outstanding in Geneva – financial mechanisms and Internet governance. Preparatory processes for these two phases have similarities but, at the same time, clear differences. The most important factor for the successful outcome of both phases is anyhow the same – the famous political will to reach consensus. The progress made in the preparations for the second phase has already shown that this political will exists also for Tunis.