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UN World Summit on the Information Society (WSIS)
Geneva, 10-12 December 2003

State of play at the negotiations on the Political Declarations and Plan of Action
Geneva, Sunday 7 December 2003, 18h00

Summary

The final negotiations are proceeding in the normal fashion before such a Summit, ie with lengthy and protracted negotiations and the various moments of near-crisis. In general however, the European Union has been doing very well indeed and, with the exception of Financing, the remaining differences on the most important issues, ie Human Rights, freedom of expression/media, Internet Governance, IPR's were settled satisfactorily for the EU.

However, the negotiations are not yet completed. The remaining issues are first and foremost an agreement on Financing, where the main differences of views are between the EU and Africa, and on the details of the follow-up phase (the Tunis Summit in 2005). A last negotiating session is scheduled for Tuesday, 9 December 2003 in the morning.

In view of the differences with the African Group on Financing, it may be that demarches of African Embassies in Brussels should be expected on Monday 8 December (particularly with Cabinets Prodi, Nielson, and Patten). For details on the issue see below.

In view of EU coordination of Heads of Mission on Monday 8 December 2003 in Geneva as well as the remaining negotiating process, it would be useful for the Commission's team to receive further guidelines on the Financing issue, as well as any feedback from possible demarches.

Results of the negotiations in Geneva, 5-6 December 2003

With a second extension of the 3rd PrepCom meeting, a final attempt was undertaken on 5-6 December in Geneva to reach consensus on the outstanding issues in the Political Declaration and the Plan of Action.

Human Rights : the EU, US and Canada took a common and rather tough line to avoid any dilution of accepted UN language on Human Rights and succeeded to maintain the proper balance in the text. Both the UN Charter and the Universal Declaration on Human Rights are quoted in a balanced way, although the reference to Art 29¹ of the UDHR was more pronounced than the EU would have liked, it was found to be acceptable within the overall package. Contrary to the last meeting, the Chinese Delegation was rather cooperative, possibly as a result of a recent visit of the President of the Swiss Confederation to Beijing and the negative press on the Chinese

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attitude during the last meetings.

Freedom of the press/Media : the finally agreed language was subject of a very long and difficult debate indeed with major discussions between EU, US, Canada on the one hand and the Arab countries on the other. The main difficulty was a phrase on 'responsible use of information by the media should be promoted' which for EU reeked of censorship. A particular problem in this regard was the recent verdict of the UN Court in relation to the role of the press in Ruanda. Nevertheless, satisfactory language was agreed.

IPR's : as a result of close cooperation of the experts of the Commission, Germany and the US, a satisfactory result was achieved, with attempts of some countries such as India and Brazil to pass language that would have put in question the balances in the current TRIPS agreement. It is clear that, in analogy to last year's international discussions on IPR's for AIDS and other drugs, developing countries believe that the TRIPS agreement is unbalanced and the rights holders of the, mostly, industrialised countries do not allow them to put in place public policies whereby innovations are available to the broader community at reasonable conditions. Although the negotiations were concluded in line with the agreed instructions from EU capitals, this subject will no doubt be re-opened in the appropriate fora.

Internet Governance: following an intense debate on the basis of a South-African coordinated position of the developing countries to try and engage in a reflection process on Internet Governance with the aim to impose an intergovernmentally controlled regime on the Internet Domain Name System, a very tough position of the US supported in a more balanced and nuanced way by the EU, Japan, and others, resulted in agreement. The agreement foresees that the UN Secretary-General is requested to set up an open-ended reflection process to investigate and make proposals on the governance of Internet by 2005. The group shall develop a definition of Internet Governance, identify the relevant public policy issues relevant to Internet governance, and report to the Tunis phase of the WSIS. It was rather surprising to see this agreement, as for a long time this seemed to be the 'deal-breaker' of the whole Summit.

The Tunis phase: discussions are still outstanding on the next phase which is expected to culminate in the Tunis Summit in November 2005. The Tunisian government together with the Arab Group and some African countries are in favour of an elaborate preparatory process with many formal, preparatory conferences and deliverables. Most of the developed countries want to see this limited both as a result of concerns about the costs and a possible lack of content.

Financing : the African countries have asked for some time now for the establishment of a voluntary Digital Solidarity Fund. Almost all donors around the world are against this for a variety of reasons (proliferation of funding channels, experiences with past funds, accountability, re-distribution formula, management costs etc).

The main contenders in the debate are the EU (as the biggest global donor) and the African Group. The EU had worked with the African Group over the last months and jointly slowly come to a tentative agreement that the Fund would possibly be mentioned

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in the text but only under certain conditions. Although a number of EU Member States (notably Germany, UK, Netherlands, Denmark) are under tough instructions that the Fund could not even be mentioned, it became clear that in a final package this mention would be inevitable.

The bottom-line for the EU however is the fact that the establishment of the Fund is subject to the results of a preliminary study/review on the possible modalities of such a Fund. In the final debate it became clear that a number of African countries, contrary to the line which had been developing between the EU and the African Group, insisted that their only goal was the creation of the Fund at the Geneva Summit and could thus not accept any conditionality on its creation. This caused the EU to refuse an agreement, due to the clear instructions in a number of Member States.

As a result of the above, the negotiations could not be concluded and a further (and final) negotiating session is foreseen for Tuesday 9 December in the morning. The EU coordination to determine the negotiation position and tactics will take place during the preceding afternoon in Geneva at the level of the Heads of Mission.

The Commission's negotiating team would be grateful for feedback on any such demarches and for any further guidelines, which the Cabinets feel are appropriate (please directly to either _____ or to _____, at _____).

Geneva, Sunday 7 December, 18h00