

**UNITED NATIONS COMMISSION ON SCIENCE AND TECHNOLOGY  
FOR DEVELOPMENT**

**Working Group on Enhanced Cooperation**

**Contribution to the guiding questions agreed during first meeting of the  
WGEC**

**Submitted by**

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## UNCSTD Working Group on Enhanced Cooperation

### Comments by Prof. em. Wolfgang Kleinwächter, University of Aarhus

#### *1. What are the high level characteristics of enhanced cooperation?*

My name is Wolfgang Kleinwächter. I am a Professor Emeritus on Internet Policy and Legislation at the University of Aarhus. From 2003 to 2005 I was a member of the UN Working Group on Internet Governance. Insofar I was deeply involved both in the drafting of the working definition of Internet Governance, as it was adopted by the Tunis Agenda, and in the designing of the different models of the so-called “oversight function” where governments could not agree in the Tunis Agenda.

The language “enhanced cooperation” in the Tunis Agenda represents an agreement on a disagreement among governments how to organize governmental oversight over critical Internet resources. The “diplomatic ambiguity”, represented in the unclear and vague language, allowed the two conflicting parties to keep their face and to stick to their different ideas how Internet Governance should be globally organized.

In 2005 one group of governments wanted to see a new intergovernmental body - an Intergovernmental Internet Council (IIC) - to oversee the evolution and the use of the Internet in a more traditional top down policy making process. The other group of government, supported by the majority of non-governmental stakeholders from the private sector, the technical community and civil society, preferred a multistakeholder model where policy is developed in open and transparent bottom up policy development processes (PDPs) which include all stakeholders in their respective roles on equal footing.

The conflict was further feeded by the fact, that in 2005 the US government played a unique oversight role over ICANN. ICANN is the key manager of the global domain name system, one of the critical Internet resources. In 2005, ICANN operated both under a Memorandum of Understanding (MoU) and the IANA contract with the US Department of Commerce. This US role was seen by many governments as a violation of the principle of sovereign equality of states, as laid down in the UN Charter. In their understanding, the process of enhanced cooperation, as agreed in the Tunis Agenda, was aimed primarily to bring all governments on an equal footing with regard to their involvement in ICANN.

Since 2005 the political and technical environment for the understanding of the concept of enhanced cooperation has changed substantially. The main and fundamental change is the termination of the special oversight and stewardship role of the US government. As a reaction to para. 69 of the Tunis Agenda in September 2006 the US government substituted the MoU by a new Joint Project Agreement (JPA) which reduced the oversight role of the US government over ICANN substantially. In 2009, the Obama Administration terminated formal US oversight and substituted the JPA by an Affirmation of Commitment (AOC) which introduces an innovative decentralized and multistakeholder oversight mechanism in form of periodically reviews in ICANNs Transparency and Accountability, Security and Stability, Competition and Consumer Choice and Whois. Finally, in September 2016, the US government terminated also its stewardship role over the so-called IANA functions. ICANN is now independent and accountable to the so-called “empowered community” in which the 170+ members of ICANNs Governmental Advisory Committee play an important role and where all governments are treated on equal footing.

In 2005 there was no agreed definition, what “enhanced cooperation” could mean. In 2008 I was involved in a high level expert meeting which discussed the various components of “enhanced cooperation”. The expert meeting included former academic members of the WGIG as well as key governmental negotiators, who has been involved in the drafting of the Tunis Agenda. The meeting proposed a working definition for enhanced cooperation in Internet Governance. According to this proposal, enhanced cooperation in Internet Governance means "enhanced communication, coordination and informal as well as formal collaboration among governmental and non-governmental stakeholders in open, transparent and inclusive bottom-up policy development processes (PDP), in shared decision making and in implementation with the aim to achieve a sustainable framework for the evolution und the use of the Internet (EC<sup>3</sup>)."

This working definition includes components of enhanced cooperation both within each stakeholder groups, inter alia, within and among governments on equal footing, as well as among all governmental and non-governmental stakeholder groups. This working definition is not an official or worldwide recognized definition. But it has helped to structure a rather vague and complex process.

**2. Taking into consideration the work of the previous WGEC and the Tunis Agenda, particularly paragraphs 69-71, what kind of recommendations should we consider?**

@ Para 69: With the completed IANA transition all governments are now enabled on an equal footing “to carry out their roles and responsibilities, in international public policy issues pertaining to the Internet, but not in the day-to-day technical and operational matters, that do not impact on international public policy issues”. The WGEC could adopt a recommendation to the GAC, where now all governments have the same rights, to enhance the understanding of the role of the GAC in the so-called “empowered community” within ICANN.

@ Para 70: This paragraph calls for “the development of globally-applicable principles on public policy issues”. Nine years after the Tunis summit, in April 2014 the Sao Paulo Multistakeholder NetMundial conference adopted a universal declaration of principles on public policy issues which were supported by a great majority of governments, private sector corporations, civil society groups and technical organisations. It would be good if the WGEC would express support to those principles and recommends procedures how those principles should be further implemented.

@ Para. 71: This paragraph asks for “annual performance reports.” It would be good if the WGEC recommends to all involved governmental and non-governmental organizations to provide input into an annual „Internet Governance Development Report“.

**See also my Articles in CircleID:**

Enhanced Cooperation in Internet Governance: From Mystery to Clarity? September, 12, 2013  
[http://www.circleid.com/posts/20131112\\_enhanced\\_cooperation\\_in\\_internet\\_governance\\_mystery\\_to\\_clarity/](http://www.circleid.com/posts/20131112_enhanced_cooperation_in_internet_governance_mystery_to_clarity/)

Breaking Nonsense: Ted Cruz, IANA Transition and the Irony of Life, September 21, 2016  
[http://www.circleid.com/posts/20160921\\_breaking\\_nonsense\\_ted\\_cruz\\_iana\\_transition\\_and\\_irony\\_of\\_life/](http://www.circleid.com/posts/20160921_breaking_nonsense_ted_cruz_iana_transition_and_irony_of_life/)