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

the Centre for Internet and Society (CIS)

CIS Inputs to the Working Group on Enhanced Cooperation on Public Policy Issues Pertaining to the Internet (WGEC)

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1. What are the high level characteristics of enhanced cooperation?
   a. The Tunis Agenda leaves the term "enhanced cooperation" unclearly defined. What is clear, however, is that enhanced cooperation is distinct from the Internet Governance Forum.
   b. According to Paragraph 69 of the Tunis Agenda, enhanced cooperation will enable *"governments, 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."* In other words enhanced cooperation should result in in the development and enforcement of international public policy and only "*day-to-day technical and operational matters*" with no public policy impact and national public policy is exempt from government-to-government enhanced cooperation.
   c. According to Paragraph 70, enhanced cooperation includes *"development of globally-applicable principles on public policy issues associated with the coordination and management of critical Internet resources."* According to the paragraph, *"organizations responsible for essential tasks associated with the Internet"* should create an environment that facilitates this development of these principles using *"relevant international organizations"*. In other words, both Internet institutions [ICANN, ISOC and RIRs] and multilateral organisations [WIPO, ITU, UNESCO etc] should be used to develop principles.
   d. Paragraph 71 gives some further clarity. According to this paragraph, the process for enhanced cooperation should 1) be *"started by the UN Secretary General"* 2) *"involve all stakeholders in their respective roles"* 3) *"proceed as quickly as possible"* 4) be *"consistent with legal process"* 5) *"be responsive to innovation".*
   e. Again according to Paragraph 71, enhanced cooperation should be commenced by "relevant organisations" and should involve "all stakeholders". But only the *"relevant organisations shall be requested to provide annual performance reports."* Enhanced cooperation as envisioned in the Tunis Agenda, therefore, calls for a multistakeholder model where each constituency leads the process of developing principles and self-regulatory mechanisms that does involve *all* stakeholders at all stages, but rather, one that requires participation from *relevant* stakeholders in accordance with the issue at hand at the relevant stage.
   f. For government-to-government enhanced cooperation, governments need to agree on what is within the exclusive realm of "national public policy" for ex. national security, intellectual property policy, and protection of children online. Governments also need to agree on what is within the remit of "international

public policy" for ex. cross border taxation, cross border criminal investigations, cross border hate speech. Once this is done, the governments of the world should pursue the development and enforcement of international law and norms at the appropriate forums if they exist or alternatively they must create new forums that are appropriate.

g. For enhanced cooperation with respect to non-government "relevant organisations" [different sub-groups within the private sector, technical community and civil society], we believe that the requirements of Paragraph 71 can be understood to mean that enhanced cooperation is the "development of self regulatory norms" as a complement to traditional multilateral norm setting and international law making envisioned in Paragraph 69. In other words, the real utility of the multi-stakeholder model is self-regulation by the private sector. Besides the government, it is the private sector that has the greatest capacity for harm and therefore is in urgent need of regulation. The multistakeholder model will best serve its purpose if the end result is that the private sector self-regulates. Most of the harm emerging from large corporations can only be addressed if they agree amongst themselves. Having a centralised or homogenous model of enhanced cooperation will not suffice, the model of cooperation should be flexible in accordance with the issue being brought to the table.

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?

a. The previous work of the WGEC is useful as a mapping exercise. However, the working group was unable to agree on a definition of Enhanced Cooperation. In our previous response we have clearly indicated that enhanced cooperation is 1) development of international law and norms by governments at appropriate international/multilateral fora 2) articulation of principles by *"organizations responsible for essential tasks associated with the Internet"* and *"relevant international organizations"* and 3) development of self-regulatory norms and enforcement mechanisms by private sector, technical community and civil society with a priority for the private sector because they have the greatest potential after government for harms. To repeat, the Tunis Agenda makes it very clear that enhanced cooperation is distinct from the IGF. If the IGF is only the learning forum, we need a governance forum like ICANN so that different constituencies can develop self regulatory norms and enforcement mechanisms with inputs from other stakeholder constituencies and the public at large.