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Comments regarding the Working Group on Enhanced Cooperation (WGEC)

Richard Hill[1], IT for Change, 1 March 2018

Given the failure of the Working Group on Enhanced Cooperation (WGEC) to agree a report, I am submitting this comment to CSTD, in my personal capacity as a full member, representing civil society, of WGEC.

It is important to note that WGEC was not a traditional inter-governmental process. The members of WGEC included governments, private sector, civil society, and technical/academic community representatives. There were differences of views not only amongst governments, but also amongst and within civil society and private sector representatives. That is, there was no agreement even within individual stakeholder groups.

The main reason why WGEC could not agree any recommendations was that one camp takes the view that current Internet governance mechanisms are working well, so nothing need be done except to reassert the fundamental principles of transparency, inclusiveness, and multi-stakeholderism. The other camp takes the view that current mechanisms are not working well: there are serious issues that need international discussion, and harmonization, such as security, privacy, data protection, abuse of market power by dominant platforms, etc. My submission to WGEC lists and analyses many of those issues, see[2]:

http://unctad.org/meetings/en/Contribution/WGEC_m5_RevRecom_RichardHill_en.pdf

It is also worth noting the following trends:

1. New trends in telecommunications/ICT identified by the Internet Society (ISOC), including information on technology and services
2. A specific new trend and the proposed Digital Geneva Convention
3. International legal obligations agreed or proposed in trade negotiations
4. Actual changes in the scope of certain domestic regulatory regimes

These trends are set forth in my submission to WGEC at:

http://unctad.org/meetings/en/Contribution/WGEC_m5_contribution_RichardHill_en.pdf

It is also worth noting the specific proposal for a new mechanism put forward by several participants. This is found in section 3, pp. 5 and 6, of the following submission to WGEC:

http://unctad.org/meetings/en/Contribution/WGEC_m4_RevRecom_SaudiArabia_Russia_Pakistan_SINGH_en.pdf

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[2] An updated version is found at: http://www.apig.ch/Gaps%20r9%20clean.pdf

It is important to note that the camp that argued in WGEC that current mechanisms are working well is much the same camp that wants to move Internet governance discussions into the WTO and/or free trade agreements, which forums are not transparent, not inclusive, and not multi-stakeholder. So there would appear to be an inconsistency here, see:

http://unctad.org/meetings/en/Contribution/WGEC_m5_contribution_inconsistencies_RHill_en.pdf

It is also worth noting that the camp that argued that current mechanisms are working well strenuously maintained that the WGEC report should not contain anything that was not agreed by consensus. This is contrary to standard UN practice according to which, if there is lack of agreement, a group's report captures the differing views. Given the position taken by that camp, WGEC was not even able to agree a report. My comment on this sad state of affairs is at:

https://www.ip-watch.org/2018/02/05/analysis-working-group-enhanced-cooperation-public-policy-issues-pertaining-internet/

Some are of the view that we need increased international cooperation and harmonization regarding Internet governance. WGEC would have been an opportunity to use a multi-stakeholder process to encourage the creation of appropriate processes to deal with the issues that require international harmonization. The intransigence of those who take the view that there is no need for meaningful substantive discuss at the international level made that impossible. This is particularly galling given that those very same states are now trying to move the discussion into the WTO and free trade forums, which should be anathema to anybody who believes in multi-stakeholder models. See for example:

http://twn.my/title2/resurgence/2017/324-325/cover09.htm

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